Zoning Out: State Enterprise Zones' Impact on Sprawl, Job Creation, and Environment

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Abstract: State enterprise zone programs are a common type of economic development incentive. These programs designate certain geographical areas as enterprise zones and provide tax breaks to qualified businesses located within those zones. Depending on the location of the geographical area chosen, enterprise zone programs may contribute to sprawl development. This Note first provides an overview of state enterprise zone programs. Second, this Note examines the programs’ environmental impact by exploring their link to sprawl development. This Note ultimately argues that states should bring enterprise zone programs in line with smart growth principles. This Note also argues that advocates for such reform will be more successful if they are mindful of communities’ need for job creation and economic development. Consequently, this Note provides an overview of the economic literature evaluating state enterprise zone programs, and an overview of the evolving dynamic between job proponents and environmental advocates.

Introduction

In today’s global marketplace, states struggle to ensure that their local economies prosper.1 To encourage economic development, most states invest significant revenue in a variety of tax incentives.2 One common type of economic development incentive is state enterprise zone programs, which are employed by over forty states in the

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2 ROBERT G. LYNCH, RETHINKING GROWTH STRATEGIES 1 (2004); Robert T. Greenbaum,
United States. These programs designate certain geographical areas as enterprise zones and provide tax breaks to qualified businesses located within those areas. While the goals of the state programs vary, most programs aim to stimulate business and investment in economically depressed areas, create jobs, generate economic growth, and address the impacts of economic dislocations.

Environmental advocates, however, have linked state enterprise zone programs to sprawl development. This link concerns environmentalists because they contend that sprawl development causes the destruction of natural areas, and increases air and water pollution. For environmental advocates, then, states should avoid these environmental harms by promoting smart growth instead of sprawl development. Attempts by advocates to address the environmental impact of enterprise zone programs, however, could be interpreted by zone communities as demanding a choice between jobs and environmental conservation, since enterprise zones are, in part, job creation programs.

Since state enterprise zone programs are job creation programs that have been linked to sprawl, a critical evaluation of these programs requires both an evaluation of the programs’ environmental impact and of their success at job creation. Many communities view these two needs—job creation and environmental protection—as conflicting. Consequently, successful reform of any of the programs’ shortcomings requires an understanding of the evolving dynamic be-

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8 Paving Paradise, supra note 7.

9 See Engberg & Greenbaum, supra note 4, at 165; Paving Paradise, supra note 7.

10 See Engberg & Greenbaum, supra note 4, at 165; Subsidizing Sprawl, supra note 6, at 9, 12.

between job proponents and environmental advocates. In addition, reform of the programs to address their links to sprawl may pit proponents of unfettered economic growth against advocates of more targeted planning.

Part I of this Note provides an overview of state enterprise zone programs in regards to the programs’ history, goals, structures, and benefits. Part II documents the environmental impact of the programs, stemming from the programs’ contribution to sprawl development. Since addressing the environmental impact raises a potential conflict between jobs and environmental protection, Part III reviews the dynamic of the potential conflict between advocates of jobs and environmental advocates. Part IV surveys the economic literature’s evaluation of state enterprise zone programs. Part V argues that states should explicitly consider the environmental impact of state enterprise zones. Part V further argues that state legislatures should revise their enterprise zone programs to address the programs’ links to sprawl development and to bring the programs in line with smart growth. Lastly, Part V argues that environmental advocates attempting to revise state enterprise zone programs should evaluate the programs against their stated economic goals, since, as evaluated in the bulk of economic literature, many of these programs fail to meet these goals.

I. OVERVIEW OF STATE ENTERPRISE ZONE PROGRAMS

States forgo significant revenue to provide economic development incentives in order to attract business development and create jobs. One study estimated that in 1996, states and localities nationwide forwent $48.8 billion dollars in revenue through tax credits and subsidies to businesses. State enterprise zone programs are one


14 Lynch, supra note 2, at 1. For example, a Wisconsin Legislative Audit Bureau report found that the state awarded $41,176,300 from 2001 to 2004 in enterprise development zone tax credits to businesses. STATE OF WIS. LEGISLATIVE AUDIT BUREAU, STATE ECON. DEV. PROGRAMS 92 (2006). The Iowa Legislative Services Agency reported that enterprise zone program tax credits were $45.8 million in fiscal year 2005. VICTOR ELIAS & CHARLES BRUNER, IOWA FISCAL PARTNERSHIP, LOOKING BEHIND THE CURTAIN: UNVEILING THE PROBLEM OF TAX EXPENDITURES IN IOWA 4 (2006), available at http://www.iowafiscal.org/2006docs/061219-ifp-transp-full.pdf.

15 Lynch, supra note 2, at 1.
common type of incentive that designate certain geographical areas as enterprise zones and provide tax breaks to qualified businesses located within those areas. Typical incentives include “property tax abatements, state corporate income tax credits for job creation and investment, sales and use tax exemptions, lower utility rates, and tax-free low-interest loans.” As of 2004, more than forty states had some form of enterprise zone program.

A. History and Goals of State Enterprise Zone Programs

Localities in the United States have used tax incentives to attract businesses since the colonial period. In fact, Alexander Hamilton received a tax incentive to site a factory in New Jersey in 1791. The concept of enterprise zone programs, however, was developed by British academics in the late 1970s and championed by conservative members of Parliament who believed that lessening the tax burden in struggling cities would spur local investment and business growth. The idea was popularized in the United States by Stuart Butler, a policy analyst at the conservative think tank, the Heritage Foundation. Though national legislation initially failed, states began enacting enterprise zone programs in the early 1980s.

16 Greenbaum, supra note 2, at 67; see Engberg & Greenbaum, supra note 4, at 165.
17 Talanker, Davis & LeRoy, supra note 3, at 5.
18 Greenbaum, supra note 2, at 67.
19 Buss, supra note 1, at 91.
20 Id.
21 Alan H. Peters & Peter S. Fisher, State Enterprise Zone Programs: Have They Worked? 24 (2002). The constitutionality of state tax incentives under the Commerce Clause was challenged by local taxpayers in a recent case, DaimlerChrysler Corp. v. Cuno, 126 S. Ct. 1854, 1859 (2006). The Court rejected the plaintiffs’ claims by holding that they lacked standing to challenge the state tax incentives in federal court. Id. at 1864. It is beyond the scope of this Note to address Commerce Clause challenges to these programs. While a Supreme Court ruling that state tax incentives violate the Commerce Clause could alter drastically the analysis provided in this Note, the impact of state enterprise zone programs is significant enough to warrant analysis under the current state of the law. See generally Sherry L. Jarrell et al., Law and Economics of Regulating Local Economic Development Incentives, 41 Wake Forest L. Rev. 805 (2006), for an overview of this issue.
State enterprise zone programs vary in goals, structure, and benefits. Stated goals often include stimulating business and investment in economically depressed areas, creating jobs, generating economic growth, and addressing the impact of economic dislocations. For example, the Alabama enterprise zone statute states:

[T]here are certain economically depressed areas in such cities that need particular attention to create new jobs, stimulate economic activity and attract private sector investment rather than government subsidy to improve the quality of life of their citizens. It is the purpose of this section to encourage new economic activity in these depressed areas . . . .

Similarly, the California enterprise zone statute’s stated purpose is “to stimulate business and industrial growth in the depressed areas of the state by relaxing regulatory controls that impede private investment.”

Justifications for using enterprise zone programs to achieve such goals vary. Some proponents argue that areas that businesses regard as high-risk need additional incentives to secure investment. According to these proponents, it is worthwhile to attract such investment because poverty tends to concentrate in certain geographical areas; therefore, one must stimulate economic growth in economically depressed areas to address poverty. Enterprise zone programs are thus developed from a belief that anti-poverty policies must address community development rather than solely focusing on individual achievement. For instance, the Illinois enterprise zone statute’s stated purposes include “stimulating neighborhood revitalization of depressed areas of the State . . . .” Enterprise zones located in urban areas also address the perceived inequity often referred to as the “spatial mismatch hy-

24 Peters & Fisher, supra note 21, at 27.
27 Cal. Gov’t Code § 7071; see also La. Rev. Stat. Ann. § 51:1782 (2003) (declaring the purpose of the state’s enterprise zone program as “to stimulate business and industrial growth in these areas of the state by the relaxation of governmental controls, by providing assistance to businesses and industries, and by providing tax incentives in these areas”).
28 Buss, supra note 1, at 91.
30 Greenbaum, supra note 2, at 68–69.
31 Engberg & Greenbaum, supra note 4, at 165.
This hypothesis states that inner-city residents are often barred from accessing flourishing suburban job markets by inadequate transportation and cultural barriers.

Other proponents focus on the state economy, arguing that enterprise zone incentives are needed to keep businesses from moving to other states, aid struggling firms, and attract out-of-state businesses. The California enterprise zone statute, for instance, states that the enterprise zone program will serve to “help attract business and industry to the state, to help retain and expand existing state business and industry, and to create increased job opportunities for all Californians.”

B. Structure and Benefits of State Enterprise Zone Programs

The structures of enterprise zone programs vary by state, and some state programs adopt different names such as Pennsylvania’s Keystone Opportunity Zones. Despite these variations, most programs share common characteristics. Each state program has a “central zone-coordinating agency” that administers the program statewide and a local body that governs individual zones. Each state program also delineates criteria for an area to be designated as an enterprise zone. Many states limit the total number of enterprise zones that can be created in a year and the total number of enterprise zones statewide. As a result of such limitations, every qualifying area is not guaranteed zone

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33 Peters & Fisher, supra note 21, at 41.
34 Id. at 41–42.
35 Buss, supra note 1, at 91.
36 Cal. Gov’t Code § 7071 (West 2007); see also S.C. Code Ann. § 12-10-20 (2000) (stating that an intent of the state’s enterprise zone act was “to induce the location or expansion of manufacturing, processing, services, distribution, warehousing, research and development, corporate offices, and certain tourism facilities within the State”).
38 Engberg & Greenbaum, supra note 4, at 165.
39 Id. The programs are usually administered under the state departments of economic development or departments of commerce. See, e.g., Cal. Gov’t Code §§ 7072(a), 7073(b)(1) (West 2007) (stating that the Department of Housing and Community Development shall designate enterprise zones); N.Y. Gen. Mun. Law §§ 957(b), 959 (McKinney 2004) (stating that New York’s empire zone program is administered by the Commissioner of Economic Development).
40 Engberg & Greenbaum, supra note 4, at 165.
41 Talanker, Davis & LeRoy, supra note 3, at 5.
status. Some states require the passage of a local ordinance, public notice, and a public hearing before a locality can apply for zone designation. States’ criteria for zone designation may include unemployment level, a maximum threshold for zone resident income levels, population loss, and a certain percentage of vacant buildings. States sometimes set stricter criteria for zone designation initially and then amend the program so that more areas qualify for enterprise zones. At least eleven states have expanded their original zone eligibility criteria by extending enterprise zone benefits throughout the state, adding “non-contiguous land” to a zone, extending eligibility benefits to businesses not located within a zone, or enlarging the size of their zones.

All states also require businesses to meet certain criteria in order to qualify for zone benefits, but criteria vary by state. The vast majority of programs require a business to be located in the zone. Many programs require either a “minimal capital investment” or that businesses create a certain number of jobs within the zone. Some states tie incentive levels to the number of jobs created or the level of capital investment. Other states require businesses to hire employees who live within the zone and some require businesses to pay at least a minimum specified wage.

States also differ with respect to the benefits they provide. Typical zone benefits include an investment tax credit and a job tax credit. Other benefits include: assistance for job training; increased funding for infrastructure and public services; sales tax exemption; local property tax abatement applied to real property improvements; and full or partial exemption from income tax on profits attributable to zone investment. Some states provide certain benefits statewide, with additional benefits for businesses located within the zones, while other states limit benefits to businesses located within the zones.

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42 See id.
43 Id.
44 Id.; Engberg & Greenbaum, supra note 4, at 165.
45 See Talanker, Davis & LeRoy, supra note 3, at 38–39.
46 See id.
47 Engberg & Greenbaum, supra note 4, at 165.
48 Id.
49 Id.
50 Id.
51 Talanker, Davis & LeRoy, supra note 3, at 5.
52 Engberg & Greenbaum, supra note 4, at 165.
53 Peters & Fisher, supra note 21, at 32.
54 Id.; Engberg & Greenbaum, supra note 4, at 166.
55 See Peters & Fisher, supra note 21, at 32.
1992 survey of 112 cities, forty-four of which contained enterprise zones, found that the total incentive package for businesses in cities that had enterprise zones was on average two to three times higher than the average incentive package for businesses in cities without enterprise zones.\textsuperscript{56}

C. Example: New York State’s Empire Zone Program

New York State’s empire zone program provides an example of how one state has structured its enterprise zone program.\textsuperscript{57} New York State’s empire zone program designates targeted areas across the state as “empire zones.”\textsuperscript{58} As of November 2007, there were eighty-two empire zones statewide.\textsuperscript{59} To be considered for zone designation by the state, a municipality must adopt a local law authorizing a municipal corporation to submit an application for zone designation.\textsuperscript{60} To be eligible for zone designation, an area must be characterized by “pervasive poverty, high unemployment and general economic distress.”\textsuperscript{61} The application must demonstrate local support, economic planning, and existing infrastructure within the zone.\textsuperscript{62} Once a zone is designated, all businesses located within the zone may apply for a real property tax exemption, a tax credit for qualified investments in the empire zone capital corporation and community development projects, and a refund or credit of state and local sales taxes for purchases of goods or services within the zone.\textsuperscript{63}

\textsuperscript{56} Id. at 33.
\textsuperscript{57} Though the program was established in 1986, from 1986 until 1999 empire zones were called economic development zones. Office of Budget & Policy Analysis, Office of the State Comptroller, New York State: The Agenda for Reform 91, 93 (2006). New York is one of many state enterprise zone programs that has a name other than enterprise zones. See Peters & Fisher, supra note 21, at 21.
\textsuperscript{58} N.Y. GEN. MUN. LAW § 957(d) (McKinney 2004).
\textsuperscript{60} N.Y. Comp. Codes R. & Regs. tit. 5, § 10.3(a) (2007).
\textsuperscript{61} Id. § 10.4(a). A zone is designated by the Empire Zone Designation Board, which is comprised of the Commissioner of Taxation and Finance, the Director of the Budget, the Commissioner of Labor, two members appointed by the governor, one member appointed by the president of the state senate, and one appointed by the speaker of the state assembly. N.Y. Gen. Mun. Law § 960(a).
\textsuperscript{62} N.Y. Gen. Mun. Law § 961. In 2005 the New York State Legislature amended its empire zone program to require that any application for zone designation demonstrate that there is no viable alternative area that has existing public water or sewer infrastructure. Id.
\textsuperscript{63} N.Y. Real Prop. Tax Law § 485-e (McKinney 2006); N.Y. Tax Law §§ 210(20), 606(i), 606(l), 1456(d), 1511(h), 1119(a), 1210 (McKinney 2006); N.Y. Comp. Codes R. &
Businesses within the zone that become jointly certified by the local zone administrators and the state are eligible to receive additional incentives, including an investment tax credit against corporate franchise tax and personal income tax, a wage tax credit, and a real property tax credit.\textsuperscript{64} The result of these incentives is that certified businesses that create jobs can operate on an almost “tax-free” basis for up to ten years.\textsuperscript{65} To become certified, a business located within an empire zone must submit a completed application that must be approved by the local zone administration board, local zone certification officer, the Commissioner of Economic Development, and the Commissioner of Labor.\textsuperscript{66} As of November 2007, the State’s zones contained over 9800 certified businesses that reported employing over 380,000 people.\textsuperscript{67}

II. ENVIRONMENTAL IMPACT OF STATE ENTERPRISE ZONE PROGRAMS

The environmental impact of state enterprise zone programs largely depends on where the zones are designated.\textsuperscript{68} Under the original vision of state enterprise zone programs, the programs could function as part of smart growth efforts at urban revitalization because they encouraged businesses to redevelop blighted urban areas.\textsuperscript{69} In many

\textsuperscript{64} N.Y. Tax Law §§ 14, 15, 210, 606, 1456(e), 1456(o), 1511(r), 1511(s) (McKinney 2006); N.Y. Comp. Codes R. & Regs. tit. 5, § 11.1.


\textsuperscript{66} See N.Y. Gen. Mun. Law §§ 957(b), 963(a) (Consol. 2006).


\textsuperscript{68} See GREG LEROY, THE GREAT AMERICAN JOBS SCAM 129, 131 (2005).

\textsuperscript{69} See F. KAID BENFIELD ET AL., ONCE THERE WERE GREENFIELDS 138 (1999); PETERS & FISHER, supra note 21, at 24; LEROY, supra note 68, at 129. Smart growth does not have one definition. Ed Bolen et al., Smart Growth: A Review of Programs State by State, 8 HASTINGS W-NW. J. ENVTL. L. & Pol'y 145, 145 (2002). One article characterized smart growth by stating that “Smart Growth strives to protect farmland and open space, revitalize neighborhoods, and provide more transportation choices. Smart Growth encourages reinvestment in existing communities, more efficient use of existing infrastructure . . . .” Alyson L. Geller, Smart Growth: A Prescription for Livable Cities, 93 Am. J. Pub. Health 1410, 1411 (2003).
states, however, enterprise zones have not been limited to blighted urban communities. Rather, zones have been designated outside urban centers in a manner that environmental advocates contend contribute to sprawl.

A. Enterprise Zones’ Impact on Development Patterns: Sprawl and Smart Growth

Sprawl has a range of definitions. Richard Moe, President of the National Trust for Historic Preservation, has defined sprawl as “low-density development on the edges of cities and towns that is poorly planned, land-consumptive, automobile-dependent [and] designed without regard to its surroundings.” Similarly, the organization Smart Growth America has defined sprawl as “the outcome of four factors: low residential density; a poor mix of homes, jobs, and services; limited activity centers and downtown areas; and limited options for walking and biking.” Development advocates contend, however, that many Americans favor so-called sprawl development.

Enterprise zone programs can increase sprawl development if structured in ways that incentivize that sort of development. Environmentalists contend that one way enterprise zone programs contribute to sprawl development is by failing to ensure that zone locations are accessible by public transportation. A 2003 report, Missing the Bus,
concluded that no state “effectively coordinat[ed] its economic development spending with public transportation planning.”

Another way enterprise zone programs can be viewed as contributing to sprawl development is by encouraging business relocation within a state. This encouragement can contribute to sprawl development if a business relocates from an older, established community into a newly expanding community. A study of companies that relocated into enterprise zones in Ohio found that of the seventy-six business relocations in 1998, sixty-eight corporate relocations impacting 6523 jobs were intrastate moves, and only six relocations impacting 323 jobs were interstate relocations. Thus, by a ratio of twenty to one, more jobs were moved within the state than from other states. A 2003 study of population and land use trends in upstate New York found that although the population of upstate New York only grew by 2.6% between 1982 and 1997, urban acreage increased by 30%. This increase resulted from the conversion of “over 425,000 acres of land from rural uses (mostly agricultural and forest land) to urban development.” The report cited New York State’s empire zone program as one of the causes of this “sprawl without growth,” as it “often encourag[ed] jobs to simply move from one Upstate location to another.” Similarly, an article in the Kansas City Star examined the links between tax incentive programs—including the State’s enterprise zone program—and business relocation from Kansas City to surrounding suburbs and towns. Prominent companies such as Toys “R” Us, Inc., and Sealright Co., Inc., had taken tax incentives to move from Kansas City to surrounding suburbs and

78 Id. This report was produced by Good Jobs First, a policy resource center. See id.; Good Jobs First, About Us, http://www.goodjobsfirst.org/about_us.cfm (last visited Jan. 16, 2008).
82 Id.
83 Pendall, supra note 80, at 1, 3.
84 Id.
85 Id. at 1, 7, 9.
tows.\textsuperscript{87} Speaking on this loss of business, Philip Kirk Jr., president of a downtown Kansas City development force, commented: “Some of the tools we’ve designed to reverse the trends of sprawl are being applied anywhere and everywhere.”\textsuperscript{88}

By contrast, Maryland explicitly links its economic development subsidies to smart growth planning.\textsuperscript{89} Maryland’s Smart Growth and Neighborhood Conservation Initiative won the Harvard University John F. Kennedy School of Government and Ford Foundation Award for Innovation in American Government.\textsuperscript{90} Maryland directs state spending into established communities.\textsuperscript{91} The program seeks to preserve natural resources, ensure that state expenditures support existing communities and neighborhoods, and save funds by avoiding the cost of building the new public infrastructure that sprawl requires.\textsuperscript{92} The program creates Priority Funding Areas (PFAs) as areas “targeted for future growth” and prohibits state spending on “growth-related projects” outside PFAs.\textsuperscript{93} State spending also must be consistent with local development plans.\textsuperscript{94} All previously designated state enterprise zone programs were included in a PFA.\textsuperscript{95}

B. Environmental Impact of Sprawl Development

Environmental advocates contend that the environmental impact of sprawl development includes the destruction of natural areas and increased pollution.\textsuperscript{96} Sprawl development’s contribution to the de-

\textsuperscript{87} Id.
\textsuperscript{88} See id. In contrast, a 2004 study of ten state enterprise zone programs found that states did target economically distressed areas for zone benefits. Greenbaum, supra note 2, at 67, 78.
\textsuperscript{89} Parris N. Glendening, \textit{Smart Growth: Maryland’s Innovative Answer to Sprawl}, 10 B.U. Pub. Int. L. J. 416, 416, 421 (2001) [hereinafter \textit{Maryland’s Innovative Answer to Sprawl}]. Other states require individual zones to be consistent with local development goals. See, e.g., \textit{Ohio Dep’t of Dev., Enterprise Zone Creation and Amendment Process} 1 (2005), http://www.odod.state.oh.us/cms/uploadedfiles/EDD/OTI/Zone%20Create%20Amend.pdf (stating that the guidelines for operating a local enterprise zone in Ohio must be consistent with local development goals).
\textsuperscript{91} \textit{Maryland’s Innovative Answer to Sprawl}, supra note 89, at 420–21.
\textsuperscript{92} Id. at 421.
\textsuperscript{93} Id.
\textsuperscript{94} Bolen et al., supra note 69, at 172.
\textsuperscript{95} \textit{Maryland’s Innovative Answer to Sprawl}, supra note 89, at 420–21.
\textsuperscript{96} \textit{Paving Paradise}, supra note 7.
struction of open space is well-documented.\textsuperscript{97} It is estimated that one million acres of farmland are developed in the United States annually.\textsuperscript{98} The Department of Agriculture reported that sixteen million acres of forest, cropland, and open space were developed between 1992 and 1997.\textsuperscript{99} Development often exceeds population growth.\textsuperscript{100} A Brookings Institution study found that urbanized land area increased by 47\% between 1982 and 1997, but the United States population only increased by 17\% during the same period.\textsuperscript{101}

In addition, sprawl development leads to increased use of automobiles as people travel farther for work, errands, and recreation.\textsuperscript{102} Congestion caused by sprawl cost $72 billion per year nationally in lost time and expended fuel.\textsuperscript{103} Increased automobile usage increases air pollution, degrades air quality, and contributes to global warming.\textsuperscript{104} In 1994, the U.S. Environmental Protection Agency (EPA) stated that “[u]nhealthy air pollution levels still plague virtually every major city in the United States,” concluding that “[t]his is largely because development and urban sprawl have created new pollution sources and have contributed to a doubling of vehicle travel since 1970.”\textsuperscript{105} In terms of global warming, approximately 32\%, or 450 million metric tons, of the United States’ total of carbon dioxide emissions into the atmosphere each year come from transportation.\textsuperscript{106}


\textsuperscript{99} Dowling, supra note 98, at 878.

\textsuperscript{100} See LeRoy, supra note 6, at 10.

\textsuperscript{101} Id.

\textsuperscript{102} Paving Paradise, supra note 7.

\textsuperscript{103} Dowling, supra note 98, at 875.

\textsuperscript{104} Benfield et al., supra note 69, at 51–52, 55.

\textsuperscript{105} Paving Paradise, supra note 7. In 1998, EPA estimated that the health effects of ozone pollution related to traffic cost between $1 and $2 billion per year. Benfield et al., supra note 69, at 56–57.

\textsuperscript{106} Paving Paradise, supra note 7.
Environmental advocates further contend that sprawl development threatens water quality due to increased stormwater runoff. Sprawl development increases the amount of impervious surface—such as rooftops and paved parking lots—in a watershed. When it rains on an impervious surface, water does not get absorbed into the ground, but instead accumulates on that surface and then runs into nearby waterbodies carrying pollutants. For example, a one-inch rain storm would result in 3450 cubic feet of runoff from a one-acre paved parking lot, but only 218 cubic feet from a one-acre meadow. Impervious surface thus increases the volume and speed of stormwater runoff, which in turn increases flooding, erosion, and pollutant discharges into waterbodies. Runoff pollution is estimated to affect 40% of surveyed rivers, lakes, and estuaries in the United States.

Sprawl development threatens wildlife through habitat loss, habitat fragmentation, and increased pollution in wildlife habitats. For example, the Natural Resources Defense Council (NRDC) reported that sprawl development has eliminated over 90% of the coastal sage ecosystem in Southern California, which the U.S. Fish and Wildlife Service called “one of the most depleted habitats in the United States.” In Florida, an estimated thirty to fifty adult Florida panthers remain in a limited habitat that continues to be converted for residential and agricultural uses.

In response to these environmental problems, development advocates contend that the impact of the development of farmland and natural areas has been exaggerated. They argue that increased productivity compensates for a loss of farmland. Moreover, significant farmland still exists—farmland comprises approximately half of the 1.9 billion acres in the contiguous forty-eight states; by comparison, wooded land comprises 33% of those acres, while developed land is

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107 Benfield et al., supra note 69, at 80.
108 Id.
109 Id.
110 Id. at 81.
111 Id. at 80.
112 Id.
114 Id.
115 Id.
117 Id. at 17.
only 3%.\textsuperscript{118} Likewise, development advocates challenge the link between increased vehicle usage due to sprawl development and increased vehicle emissions.\textsuperscript{119} They contend that overall highway vehicle emissions have declined, even with increased vehicle usage, because of ongoing technological improvements.\textsuperscript{120} They argue that programs encouraging people to reduce their vehicle usage have failed to improve air quality and that traffic congestion is not caused by sprawl, but rather by inadequate road construction.\textsuperscript{121} More generally, development advocates counter concerns about the environmental impact of sprawl development by emphasizing that development decisions should be the free choice of property owners and that attempts to limit development tread upon this freedom.\textsuperscript{122}

III. JOBS VERSUS THE ENVIRONMENT: AN EVOLVING DYNAMIC

Zone communities could interpret attempts by environmental advocates to address the environmental impact of enterprise zone programs as demanding a choice between jobs and environmental conservation since enterprise zones are, in part, job creation programs.\textsuperscript{123} This conflicting dynamic is one that environmental organizations have tried to avoid in recent years.\textsuperscript{124}

Environmental protection was not always viewed as threatening job creation.\textsuperscript{125} In fact, labor unions were generally strong supporters of the modern environmental movement at its beginning.\textsuperscript{126} Initially, unions were mostly concerned about the environment as it affected public health.\textsuperscript{127} Unions, however, also allied with the conservation movement.\textsuperscript{128} In 1958, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) supported the National Wilderness Preservation System’s creation.\textsuperscript{129} The AFL-CIO was the largest individ-

\textsuperscript{118} Id.
\textsuperscript{119} The Quality Growth Coalition, supra note 75, at 27.
\textsuperscript{120} Id.
\textsuperscript{121} Id. at 27, 28.
\textsuperscript{122} Id. at 11–12. Many state and local initiatives to address sprawl development, such as zoning codes, restrict land use options. Id. at 11.
\textsuperscript{123} See Engberg & Greenbaum, supra note 4, at 165; Paving Paradise, supra note 7.
\textsuperscript{124} See Ellis, supra note 12.
\textsuperscript{125} See Obach, supra note 11, at 47.
\textsuperscript{126} Id.
\textsuperscript{127} Id.
\textsuperscript{128} Id.
\textsuperscript{129} Id.
ual contributor to the first Earth Day in 1970, and labor unions supported the Clean Air Act of 1970 and the Clean Water Act of 1972.\textsuperscript{130}

In the 1980s, however, several high-profile conflicts cemented public perception that communities had to choose between jobs and environmental protection.\textsuperscript{131} Specifically, in the Pacific Northwest, local communities rallied around the timber industry when it alleged that environmental regulations designed to protect old-growth forests and the habitat of the spotted owl would cost communities thousands of timber industry jobs.\textsuperscript{132} Similarly, the United Mine Workers clashed with environmental advocates over the acid rain provisions in the Clean Air Act’s 1990 amendments.\textsuperscript{133}

In 1999, the high-profile coalition of the International Brotherhood of Teamsters and environmentalists in opposition to the World Trade Organization (WTO) illustrated a shift towards more concerted cooperative attempts between labor unions and environmental organizations.\textsuperscript{134} Commentators challenged the notion that communities must chose between jobs and the environment.\textsuperscript{135} The United Steelworkers of America’s 1990 report, \textit{Our Children’s Future}, stated:

Steelworkers have heard the jobs argument before. For many years companies have tried to use economic and environmental blackmail on the union and its members. In every fight for a new health and safety regulation . . . there is a corporate economist to tell us that if we persist, the company or industry will fold, with hundreds or thousands of lost jobs. It rarely turns out to be true.\textsuperscript{136}

Some of these alliances have been formalized.\textsuperscript{137} The United Steelworkers Union and the Sierra Club announced a “strategic alliance” in June 2006 to create a “Blue-Green Alliance” focusing on three major issues: global warming and clean energy, fair trade, and reducing toxins.\textsuperscript{138} Another formal alliance is the Apollo Alliance, a coalition of


\textsuperscript{131} \textit{Obach}, \textit{supra} note 11, at 54, 57, 61.

\textsuperscript{132} \textit{See id.} at 54.

\textsuperscript{133} \textit{Id.} at 59.

\textsuperscript{134} \textit{See Fred Rose, Labor-Environmental Coalitions, WorkingUSA}, Spring 2003, at 51, 56.

\textsuperscript{135} \textit{See id.} at 54.

\textsuperscript{136} \textit{Id.}

\textsuperscript{137} \textit{See Ellis, \textit{supra} note 12, at 1.}

\textsuperscript{138} \textit{Id.}
labor unions and environmental organizations.\textsuperscript{139} The Alliance’s mission is “to build a broad-based constituency in support of a sustainable and clean energy economy that will create millions of good jobs for the nation, reduce our dependence on foreign oil, and create cleaner and healthier communities.”\textsuperscript{140}

Challenging the notion that communities must choose between jobs and environmental conservation, some economists have argued that the impact of environmental regulations on jobs is unproven or exaggerated and that environmental regulations can have a positive effect on jobs.\textsuperscript{141} For example, a Boston University study of Los Angeles area refineries found that air pollution regulations increased employment, likely because companies hired workers to install and maintain abatement equipment.\textsuperscript{142} In \textit{The Trade-Off Myth}, the author’s review of the economic effects of environmental regulations found that environmental regulations caused less than one-tenth of one percent of yearly layoffs in the United States, approximately 3000 jobs.\textsuperscript{143}

IV. Economic Evaluation of State Enterprise Zone Programs

In addition to examining environmental impact, state enterprise zone programs can be evaluated on their own terms, by examining if the programs meet their stated goals of economic development, firm attraction and retention, and job creation.

A. Economic Evaluation of State Enterprise Zone Programs

Most states do not evaluate the efficacy of their tax incentive programs, including enterprise zone programs.\textsuperscript{144} The National Association of State Development Agencies (NASDA) found that states did not conduct comprehensive evaluations of the cost and benefit of the financial incentives they provided to businesses.\textsuperscript{145} The Council of State

\textsuperscript{139} The Apollo Alliance for Good Jobs and Clean Energy, http://www.apolloalliance.org/about_the_alliance/Index.cfm?bSuppressLayout=1 (last visited Jan. 16, 2008). Union members include the AFL-CIO, Transportation Workers Union, United Mine Workers of America, and UNITE HERE!. Id. Environmental organization members include the Environmental Law and Policy Center, Greenpeace USA, Natural Resources Defense Council, and the Sierra Club. Id.

\textsuperscript{140} Id.

\textsuperscript{141} See Drury, \textit{supra} note 130, at 16–17.

\textsuperscript{142} Id. at 17.

\textsuperscript{143} Obach, \textit{supra} note 11, at 36 (citing Eban Goodstein, \textit{The Trade-Off Myth: Fact and Fiction about Jobs and the Environment} (1999)).

\textsuperscript{144} See Buss, \textit{supra} note 1, at 93.

\textsuperscript{145} Id.
Governments’ 1997 annual incentive study reported that a limited number of states used a formal cost-benefit model to determine the economic impact of tax and financial incentives.\textsuperscript{146} Likewise, the National Conference of State Legislators (NCSL) found that “few states know the exact amount they spend on economic development initiatives.”\textsuperscript{147} While states rarely conduct comprehensive reviews of their enterprise zone programs, a growing body of economic literature has evaluated state enterprise zone programs in terms of their influence on firm locating decisions, economic growth, and job creation.\textsuperscript{148}

1. State Enterprise Zone Programs’ Effect on Firm Location Decisions

The general consensus among economists until 1980 was that taxes had a minimal effect on business location decisions, but current surveys vary in results.\textsuperscript{149} One review of the literature reported that since 1980 most economic studies “have found a negative relationship between taxes and growth,” indicating that firms consider tax policy and benefits when making siting decisions.\textsuperscript{150} By contrast, another review of the literature concluded that there was “scant evidence” in such studies that tax cuts and incentive packages induce firms to relocate to communities with low income levels and high unemployment.\textsuperscript{151}

Some economists argue that when tax incentives fail to influence business location decisions, it may be because the taxes are too small a percentage of profits to have a significant impact.\textsuperscript{152} Peters and Fisher, urban and regional planning professors specializing in state and local

\textsuperscript{146} Id.
\textsuperscript{147} Id. (internal quotation omitted). For example, in a report reviewing the State’s economic development programs, the Legislative Audit Bureau of Wisconsin concluded that it was hard to evaluate the efficacy of the State’s enterprise zone program because the authorizing statute did not establish criteria to evaluate individual zones, the Department of Commerce had not established such criteria and did not track indicators of economic distress in the zones “such as unemployment rates, poverty rates, or per capita income,” and neither the Department of Commerce nor the Department of Revenue tracked the tax credits claimed in each zone. \textit{State of Wis. Legislative Audit Bureau, supra} note 14, at 95 (2006). However, several states have enacted statutes requiring disclosure of the amount of tax incentives claimed by each company, jobs created, and annual reports about the programs. \textit{Good Jobs First, Company-Specific Disclosure in the States} (2005), http://www.goodjobsfirst.org/pdf/disclosure_chart.pdf.
\textsuperscript{148} See Peters & Fisher, \textit{supra} note 21, at 162, 164–65.
\textsuperscript{149} Jarrell et al., \textit{supra} note 21, at 824.
\textsuperscript{150} See id.
\textsuperscript{151} Lynch, \textit{supra} note 2, at 15. This review was conducted for the Economic Policy Institute. \textit{Id.} at vi.
\textsuperscript{152} Id. at 15–16.
economic development policy, conducted a 1997 study of 112 cities from twenty-four states and found that general tax incentives on average totaled 0.7% of the studied industries’ pre-tax profit while enterprise zone tax incentives were, on average, 1.5% of pre-tax profits. This minimal difference in profit rate would therefore be eclipsed by minor differences in the cost of doing business. Accordingly, Peters and Fisher’s 2002 study found that a wage premium can eliminate the financial advantages of enterprise zone tax incentives. That study found that for sixteen industries in seventy-five cities across thirteen states, a wage premium of eighty-three cents per hour would offset the total value of all tax incentives at the state and local level.

2. State Enterprise Zone Impact on Economic Growth

Most recent studies of state enterprise zone programs have found that the zones have little or no impact on economic growth. A 1996 study of New Jersey’s enterprise zone program “found no evidence that the New Jersey enterprise zone program resulted in increased economic activity.” A 1998 study that examined the impact of state enterprise zone programs on business and housing market outcomes in six states found that overall, zones have minimal impact on business growth. While zones did create new business activity, the total number of businesses in the zone actually decreased. Similarly, a 1999 study found that, on average, enterprise zones had little impact on housing markets, which the study asserted as an indicator of zone success. A 2000 study found that the total amount of financial benefits the zones provided was not a meaningful factor for predicting growth. Likewise, the different types of benefits the zones provided were not meaningful factors. By contrast, a 2003 report on California’s state enterprise zone program concluded that the taxes collected

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153 Id.; Peters & Fisher, supra note 21, at 325.
154 Lynch, supra note 2, at 15–16.
155 Id. at 16. A wage-premium is a difference in wages. Id.
156 Id. at 16. Thus, if wages were over eighty-three cents lower or workers were eighty-three cents per hour more productive in another locality, it would offset any enterprise zone incentives. See id.
157 Peters & Fisher, supra note 21, at 165.
158 Id.
159 Id. at 165–66.
160 Id.
161 Engberg & Greenbaum, supra note 4, at 164, 180.
162 Peters & Fisher, supra note 21, at 166.
163 Id.
from jobs generated by state enterprise zones “returned to the state treasury enough new taxes to pay for the program costs.”

In a review of these studies, Peters and Fisher concluded that while econometric studies of enterprise zones were “controversial,” and the results were “not in agreement,” the majority of recent literature concluded that state enterprise zones had “little or no impact on growth.” Peters and Fisher conducted their own analysis that compared sixty-five zones in thirteen states by developing hypothetical representative firms and applying each zone’s benefits to the firms. They concluded that enterprise zones have “no discernable positive effect on new economic activity.” In addition, a study of Louisville, Kentucky’s enterprise zone did not observe economic benefits or neighborhood revitalization that could be attributed to the enterprise zone program.

3. State Enterprise Zone Impact on Job Creation

Studies also vary regarding the impact of state enterprise zones on job creation. A 1994 study of Indiana’s enterprise zone program found roughly a 19% decrease in unemployment claims within an enterprise zone the year after zone designation, indicating that the zones had a significant impact on job creation. By contrast, a 2000 study evaluating the impact of enterprise zones in six states concluded that enterprise zones have little positive impact on “employment outcomes.” Similarly, Peters and Fisher’s analysis of seventy-five zones in thirteen states concluded that “the average labor price reduction” due

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165 Peters & Fisher, supra note 21, at 166. Peters and Fisher focus their analysis on econometric studies instead of other methods to evaluate state enterprise zone programs, such as surveys of zone administrators. Id. at 44–45; see Webster’s Third New International Dictionary 720 (1986) (defining “econometrics” as “the application of mathematical form and statistical techniques to the testing and quantifying of economic theories and the solution of economic problems”).
166 Peters & Fisher, supra note 22, at 4, 172–73.
167 Id. at 185. Please note that the authors acknowledged that their study was not definitive. Id. at 192.
170 Id.
to zone incentives was greater than 1% in only two states, and that the “maximum price reduction” due to zone incentives was never greater than 3%. In addition, Peters and Fisher concluded that for zones that “spatially targeted” blighted communities, the targeted communities might not benefit most from the jobs. Their study suggested that the zones did not create many additional jobs, and that jobs that were created were often held by employees living outside the zones. In fact, these employees who commuted from outside the zones appeared to live in wealthier neighborhoods.

V. Need for Reform

A. Addressing the Environmental Impact of State Enterprise Zone Programs

While the stated goals of state enterprise zone programs may be solely economic and socioeconomic—to stimulate business and investment in economically depressed areas, create jobs, generate economic growth, and address the impact of economic dislocations—the impact of these programs is also environmental. By designating geographical areas for economic development, state enterprise zone programs make decisions about where to encourage development. However, the zone designation process generally does not include a consideration of the environmental consequences of these decisions. Zone designation criteria generally focus on indicators of poverty or economic need, such as high unemployment, a maximum threshold for zone resident income levels, and population loss; these criteria rarely include coordination with regional planning, statewide conservation goals, or an evaluation of the environmental impact of zone locations. Moreover, enterprise zone programs are usually administered under the state departments of commerce or economic development and do not involve input from environmental conservation departments or those with the

172 Peters & Fisher, supra note 21, at 54, 99, 100.
173 See id. at 212–13.
174 Id. at 213.
175 Id.
177 See Engberg & Greenbaum, supra note 4, at 163, 164–65; Greenbaum, supra note 2, at 67.
178 See Engberg & Greenbaum, supra note 4, at 164–65.
179 Talanker, Davis & LeRoy, supra note 3, at 5; Engberg & Greenbaum, supra note 4, at 165; McElfish, supra note 6, at 144.
expertise to critically examine these development choices. Although local authorities may consider their own communities’ physical development goals when deciding where to locate a zone within their locality, broader patterns of urban, suburban, and rural development are rarely examined on a regional or statewide level during the zone designation process.

The physical development impact of state enterprise zones should be explicitly examined and considered, as these programs represent significant forgone revenue. For example, a Wisconsin Legislative Audit Bureau report found that the state awarded $41,176,300 in enterprise development zone tax credits to businesses from 2001 to 2004. Before Wisconsin, or any other state, forgoes over forty-one million dollars, it should carefully consider the impact of such spending. In addition, if the programs’ impact on development patterns is not examined, this spending may inadvertently conflict with state spending on land conservation and planning. For example, voters in many states have approved spending to protect natural areas from sprawl development. From 1998 to 2002, voters approved more than $20 billion for the purchase of open space in state and local ballot initiatives. In the November 2004 election, voters approved 120 ballot measures that allotted $3.25 billion for land conservation measures. It makes little sense for a state to spend taxpayer money to conserve natural areas while providing tax incentives that might encourage the destruction of those same areas.

State legislatures should revise their enterprise zone programs to address links to sprawl development and to bring the programs in line with smart growth strategies. Links to sprawl development are signifi-

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180 See, e.g., CAL. GOV’T CODE §§ 7072(a), 7073(b)(1) (West 2007) (stating that the Department of Housing and Community Development shall designate enterprise zones); N.Y. GEN. MUN. LAW §§ 957(b), 959 (McKinney 2004) (stating that New York’s empire zone program is administered by the Commissioner of Economic Development).
181 McElfish, supra note 6, at 144; see, e.g., OHIO DEP’T OF DEV., supra note 89 (stating that the guidelines for operating a local enterprise zone in Ohio must be consistent with local development goals).
182 See Lynch, supra note 2, at 1.
183 State of Wis. Legislative Audit Bureau, supra note 14, at 92. The Iowa Legislative Services Agency reported that Enterprise Zone program tax credits were $45.8 million in fiscal year 2005. ELIAS & BRUNER, supra note 14, at 4.
184 See State of Wis. Legislative Audit Bureau, supra note 14, at 92.
186 Greening the Garden State, supra note 185, at A16.
187 Id.
188 Rogers, supra note 185, at A19.
cant enough to warrant amending the programs.\textsuperscript{\textperiodcentered 189} Several studies have documented these links.\textsuperscript{\textperiodcentered 190} For example, a study of companies that relocated into enterprise zones in Ohio found that, by a ratio of twenty to one, more jobs were moved within the state than from other states.\textsuperscript{\textperiodcentered 191} Of the seventy-four company relocations in 1998, sixty-eight relocations—affecting 6523 jobs—were moves within the state and six relocations—impacting 323 jobs—were moves from other states.\textsuperscript{\textperiodcentered 192} A 2003 study of population and land use trends in upstate New York cited New York State’s empire zone program as one of the causes of “sprawl without growth,” as it often encouraged employers to move jobs within upstate New York.\textsuperscript{\textperiodcentered 193} The report found that although the population of upstate New York only grew by 2.6\% between 1982 and 1997, urban acreage increased by 30\%, since the region converted over 425,000 acres of land from rural uses, such as agricultural and forest land, to urban ones.\textsuperscript{\textperiodcentered 194} Further, the very nature of enterprise zone programs leads to the conclusion that they could be linked to sprawl because the intent of the programs is to direct business to locate in a designated geographical area.\textsuperscript{\textperiodcentered 195} When a program’s links to sprawl have been documented, the program should be amended to address these links.\textsuperscript{\textperiodcentered 196} The information gap that exists when a program’s links to sprawl development remain unknown highlights the need for states to conduct more comprehensive review of the environmental impact of their enterprise zone programs.\textsuperscript{\textperiodcentered 197}

States should amend their programs so as to limit the destructive environmental impact of sprawl development.\textsuperscript{\textperiodcentered 198} First, when development increases faster than the population, as it does in many areas of the country, new development unnecessarily converts natural areas and farmland into strip malls, houses, and office parks.\textsuperscript{\textperiodcentered 199} A Brookings Institution study found that between 1982 and 1997 the United States population increased by 17\% while urbanized land increased by 47\%.\textsuperscript{\textperiodcentered 200}

\begin{itemize}
\item \textsuperscript{189} See LeRoy, supra note 68, at 129.
\item \textsuperscript{190} See Pendall, supra note 80, at 1, 3, 9; Development Subsidies and Labor Unions, supra note 81.
\item \textsuperscript{191} Development Subsidies and Labor Unions, supra note 81.
\item \textsuperscript{192} Id.
\item \textsuperscript{193} Pendall, supra note 80, at 3, 9.
\item \textsuperscript{194} Id. at 1, 9.
\item \textsuperscript{195} See Engberg & Greenbaum, supra note 4, at 164–65.
\item \textsuperscript{196} See, e.g., Pendall, supra note 80, at 3, 7, 9.
\item \textsuperscript{197} See Buss, supra note 1, at 93; Economic Development Subsidies, supra note 79.
\item \textsuperscript{198} See Paving Paradise, supra note 7.
\item \textsuperscript{199} See Benfield et al., supra note 69, at 12; Dowling, supra note 98, at 877–78.
\item \textsuperscript{200} Subsidizing Sprawl, supra note 6, at 10.
\end{itemize}
unnecessary destruction of farmland and natural areas is a matter of concern.\textsuperscript{201} An increase in existing farmland’s productivity does not necessarily compensate for the destruction of farmland, as contended by development advocates.\textsuperscript{202} Farmland has unique sociological and aesthetic benefits.\textsuperscript{203} In addition, while development advocates may be correct in pointing out that significant farmland and rural areas still exist nationwide, these overall statistics mask the trend to develop the highest quality farmland, leaving lower quality land in agricultural production.\textsuperscript{204}

Secondly, enterprise zone programs’ links to sprawl should be addressed because the expansion of sprawl development increases automobile usage.\textsuperscript{205} Sprawl development leads to increased use of automobiles as people travel farther for work, errands, and recreation.\textsuperscript{206} Congestion caused by sprawl costs $72 billion per year nationally in lost time and expended fuel.\textsuperscript{207} Increased automobile usage degrades air quality, increases air pollution, and contributes to global warming.\textsuperscript{208} While development advocates are correct in contending that technological improvements decrease overall vehicle emissions, air pollution is still a serious problem.\textsuperscript{209} In 1994, EPA concluded that the vast majority of major U.S. cities had unhealthy levels of air pollution because development sources contributed to a 100% increase in vehicle usage from 1970.\textsuperscript{210} In 1998, EPA estimated that the health effects of ozone pollution related to traffic cost between one to two billion dollars per year.\textsuperscript{211} Given the tremendous cost of air pollution, states should address the ways in which enterprise zone programs exacerbate this problem.\textsuperscript{212} As tax incentive programs that reflect state investments, enterprise zones should incorporate policy choices that

\textsuperscript{201} See id.
\textsuperscript{202} See Nat’l Ass’n of Homebuilders, supra note 116, at 16.
\textsuperscript{203} See American Farmland Trust, Farmland Protection Issues, http://www.farmland.org/programs/protection/default.asp (last visited Jan. 16, 2008) (stating that compelling reasons for saving farmland are the “scenic and cultural landscapes, farmers’ markets, recreational opportunities, local jobs and community businesses”).
\textsuperscript{204} Dowling, supra note 98, at 878.
\textsuperscript{205} See Paving Paradise, supra note 7.
\textsuperscript{206} Benfield et al., supra note 69, at 36; Paving Paradise, supra note 7.
\textsuperscript{207} Dowling, supra note 98, at 878.
\textsuperscript{208} Benfield et al., supra note 69, at 51–52, 55.
\textsuperscript{209} See Paving Paradise, supra note 7; The Quality Growth Coalition, supra note 75, at 27.
\textsuperscript{210} Paving Paradise, supra note 7.
\textsuperscript{211} Benfield et al., supra note 69, at 56–57.
\textsuperscript{212} See id.; Paving Paradise, supra note 7.
minimize air pollution.\textsuperscript{213} Because enterprise zone programs are tax incentive programs, states can address the programs’ contribution to sprawl that causes air pollution without limitations on vehicle travel or new development.\textsuperscript{214}

Likewise, state programs should not invest in unnecessarily increasing impervious surface or threatening wildlife habitat by encouraging sprawl development.\textsuperscript{215} The environmental impact of increased impervious surface includes increased flooding, erosion, and pollutant discharges into waterbodies.\textsuperscript{216} Additionally, sprawl development threatens wildlife through habitat loss, habitat fragmentation, and increased pollution in wildlife habitat.\textsuperscript{217} Enterprise zone programs’ contribution to these results can be minimized by addressing their links to sprawl development.\textsuperscript{218}

The free-choice concerns of property rights advocates should not stop states from reforming enterprise zone programs to promote smart growth.\textsuperscript{219} These programs represent state policy choices about where to provide significant tax incentives to encourage development.\textsuperscript{220} Since businesses may still locate in areas that lack enterprise zones, limiting zones to areas consistent with smart growth strategies should not implicate property rights advocates’ concerns about free-choice that lead them to argue against limitations on development such as zoning or planning requirements.\textsuperscript{221} In addition, if development advocates are correct that most Americans prefer to live in areas of sprawl development—a contention that many smart growth advocates would counter—there would be little need to provide incentives to develop such areas.\textsuperscript{222}

The goals of enterprise zone programs can likely be met just as effectively without promoting sprawl. To the extent that the programs’

\textsuperscript{213} See Paving Paradise, supra note 7; Engberg & Greenbaum, supra note 4, at 165.
\textsuperscript{214} See Paving Paradise, supra note 7; The Quality Growth Coalition, supra note 75, at 17, 19; Greenbaum, supra note 2, at 67.
\textsuperscript{215} See Benfield et al., supra note 69, at 80; Terris, supra note 113.
\textsuperscript{216} Benfield et al., supra note 69, at 80.
\textsuperscript{217} Terris, supra note 113.
\textsuperscript{218} See Benfield et al., supra note 69, at 80; Terris, supra note 113.
\textsuperscript{219} See The Quality Growth Coalition, supra note 75, at 19.
\textsuperscript{220} Lynch, supra note 2, at 1; Greenbaum, supra note 2, at 67.
\textsuperscript{221} See The Quality Growth Coalition, supra note 75, at 11, 17 (arguing against smart growth zoning and planning as restrictions on development); Geller, supra note 69, at 1411 (describing smart growth strategies).
\textsuperscript{222} See Paving Paradise, supra note 7 (arguing that Americans place a high value on natural areas and have a low approval rating for images of sprawl development); Gordon & Richardson, supra note 13, at 23.
goals include community development and stimulating economic growth in blighted communities, it makes little sense to develop rapidly expanding communities instead of strengthening existing ones.\textsuperscript{223} When the programs’ goals focus on improving the statewide economy by keeping businesses from moving to other states, aiding struggling firms, and luring out-of-state businesses, the rationale for providing incentives for businesses to relocate from an established community to an expanding community is weak.\textsuperscript{224} One could argue that moving a business from an established community to an expanding one will help the business grow or encourage the business to remain in the state. However, encouraging relocation from within a state does not attract outside firms, and it seems just as likely that existing firms could either expand or be persuaded to remain in the state with an incentive package at their current location, or for relocation consistent with smart growth plans.

Addressing the environmental impact of state enterprise zone programs would bring the programs more in line with their original purpose.\textsuperscript{225} As originally envisioned, the programs were intended to revitalize blighted communities in urban areas.\textsuperscript{226} Though the conservative members of Parliament and the academics at the Heritage Foundation who championed the policy would not likely have called their goal “smart growth,” urban revitalization is a central tenet of smart growth.\textsuperscript{227} Consequently, states could achieve reform of the programs to promote smart growth by focusing on the programs’ original goal of urban revitalization.\textsuperscript{228}

Even if an individual state’s program did not originate from urban revitalization goals, the nature of the programs makes them well-suited to promote smart growth without forgoing many of their other goals.\textsuperscript{229} If enterprise zone programs targeted geographical areas in keeping with smart growth planning, the state programs could still keep businesses from moving to another state, aid struggling firms, aid struggling firms,

\textsuperscript{223} See Greenbaum, supra note 2, at 68–69.
\textsuperscript{224} See Buss, supra note 1, at 91.
\textsuperscript{225} See Peters & Fisher, supra note 21, at 24.
\textsuperscript{226} Id.
\textsuperscript{227} See Benfield et al., supra note 69, at 138; Peters & Fisher, supra note 21, at 24; Geller, supra note 69, at 1411.
\textsuperscript{228} See Benfield et al., supra note 69, at 138; Peters & Fisher, supra note 21, at 24; Geller, supra note 69, at 1411.
\textsuperscript{229} See Buss, supra note 1, at 91; Engberg & Greenbaum, supra note 4, at 164–65; Greenbaum, supra note 2, at 67.
and lure out-of-state businesses. Smart growth planning can achieve its goals without reducing the effective incentives provided by enterprise zone programs.

While the ideal program structure is likely to vary by state, Maryland provides a strong example of an enterprise zone program that promotes smart growth as opposed to sprawl development. The Maryland smart growth program directs state spending into established communities. The program creates PFAs as areas “targeted for future growth” and prohibits state spending on “growth-related projects” outside PFAs. By targeting economic development spending to existing communities in a manner consistent with statewide development goals, the program ensures that economic development incentives will promote smart growth. While Maryland’s program provides the most comprehensive example, other states have enacted reforms to address the programs’ links to sprawl, demonstrating the viability of such reforms.

B. An Economic Evaluation of State Enterprise Zone Programs

Attempts by environmental advocates to address the links between enterprise zone programs and sprawl development could be interpreted by potential zone communities as demanding a choice between jobs and environmental conservation, as enterprise zones are, in part, job creation programs. Environmental organizations and labor unions have good reason to form strategic alliances to avoid the jobs-versus-the-environment dynamic that pins environmental protection against community jobs. A person’s basic needs include both the

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230 See Buss, supra note 1, at 91; Geller, supra note 89, at 1411.
231 Maryland’s Innovative Answer to Sprawl, supra note 89, at 420–21.
232 Id.
233 Id. at 421.
234 Id.
235 See id.
236 See N.Y. Gen. Mun. Law § 961(b)(xiii) (Consol. 2006). For example, in 2005 the New York State Legislature amended its empire zone program to require that any application for zone designation demonstrate that there is no viable alterative area that has existing public water or sewer infrastructure. Id. This amendment helps curb the program’s encouragement of sprawl development by prioritizing already developed areas. See id. § 961. Environmental advocates also recommend tying enterprise zone benefits to accessibility to public transit so that access to enterprise zone jobs does not require automobile usage, though this reform has not been enacted in any state as of March 2007. LeRoy, supra note 68, at 194–95.
237 See Greenbaum, supra note 2, at 67.
238 See Ellis, supra note 12; Rose, supra note 134, at 51, 56.
economic sustenance provided by jobs and the physical well-being provided by a healthy environment. Consequently, environmental advocates who fail to take the economic needs of a community into account can appear either out of touch with those needs or indifferent to them. Conversely, those who champion jobs over environmental protection ignore the physical need workers have for a healthy environment and livable community.

While efforts to amend state enterprise zone programs to limit their link to sprawl and refashion the programs as smart growth initiatives may appear to demand a choice between jobs and environmental protection, they likely do not. Although the majority of states do not evaluate the efficacy of their tax incentive programs—including enterprise zone programs—economic evaluations of the programs have shown mixed results at best. In terms of job creation, the economic studies have not found that state enterprise zones created significantly more jobs than would have existed without the zone. A 2000 study concluded that enterprise zones have little positive impact on “employment outcomes.” Similarly, an analysis of sixty-five zones in thirteen states by Peters and Fisher concluded that zones that “spatially targeted” blighted communities created few additional jobs, and many employees of businesses within the zone lived outside of the enterprise zone, undermining the goal of job creation for the zone community. In terms of the zones’ impact on economic growth, Peters and Fisher’s 2002 review of the economic literature concluded that, while econometric studies of enterprise zones were “controversial,” and the results were “not in agreement,” the majority of recent literature found that state enterprise zones had “little or no impact on growth.”

While more economic literature exists finding evidence of enterprise zone programs’ impact on firm location decisions, the literature is still divided.

239 Drury, supra note 130, at 13.  
240 See id. at 13.  
241 See id. at 11–12.  
242 See Benfield et al., supra note 69, at 138; Drury, supra note 130, at 13.  
243 See Peters & Fisher, supra note 21, at 164–65; Buss, supra note 1, at 93; Jarrell et al., supra note 21, at 805, 824. In terms of economic evaluation, this Note attempts a synthesis of the literature rather than an evaluation of the methodology or conclusions of any economic literature on state enterprise zones.  
244 Peters & Fisher, supra note 21, at 166.  
245 Id.  
246 See id. at 213.  
247 Id. at 166.  
248 Jarrell et al., supra note 21, at 824.
Environmental advocates attempting to address the environmental impact of state enterprise zone programs should evaluate the programs on their own terms. As evaluated in the bulk of economic literature, these programs fail to meet their stated goals of stimulating business and investment in economically depressed areas, creating jobs, generating economic growth, and addressing the impact of economic dislocations. Critiquing programs on their own terms avoids the jobs-versus-the-environment dynamic—if the programs have not created significantly more jobs than would have existed without them, then addressing environmental impact does not threaten job creation. Moreover, if the programs have little or no impact on economic growth, then economic benefits of the programs cannot be used to justify their environmental costs. If the benefits provided by enterprise zones fail to impact firm location decisions—an area where the economic literature is in sharper conflict—then there is little justification for these programs at all.

A critique of enterprise zone programs that addresses both their links to sprawl development and their economic failings invites a broader reform coalition than would a more limited environmental critique. Labor unions, community development advocates, and taxpayer advocates all should have an interest in ensuring that job creation programs actually create jobs. Moreover, any constituency vying for state funding has an interest in limiting inefficient tax breaks to increase available revenue. A focus on enterprise zone programs’ economic accountability, therefore, could not only help environmental advocates avoid conflict over job creation, but also invite a broad-based coalition to advance reform.

**Conclusion**

States began enacting enterprise zones in order to meet the economic needs of struggling communities. Accordingly, most state enterprise zone programs’ zone designations are run by the state’s department of commerce or economic development and focus on local economic indicators. By targeting designated areas for economic development incentives, however, the programs make implicit environ-


250 See Jarrell et al., supra note 21, at 824.

251 See McNichol & Harris, supra note 1, at 5.
mental policy decisions. In many states the programs fuel sprawl development by encouraging business relocation into rapidly developing areas. Sprawl, in turn, contributes to the destruction of natural areas, the degradation of air and water quality, and the depletion of wildlife habitat.

An explicit evaluation of this environmental impact should be built into the zone designation process. Moreover, states should reform their programs to minimize these impacts. The environmental impact of enterprise zone programs, however, should not be evaluated in a vacuum. Enterprise zone programs are primarily economic development programs, and therefore community needs for job creation must be recognized. When enacted successfully, smart growth principles encourage states, regions, and local communities to promote both economic development and environmental conservation. Consequently, reform of state enterprise zone programs in accordance with smart growth principles can attempt to minimize the programs’ environmental impact and ensure the programs’ economic viability. States can therefore maximize the benefit of their expenditures by reforming their enterprise zone programs to ensure that the programs promote economically accountable smart growth.