

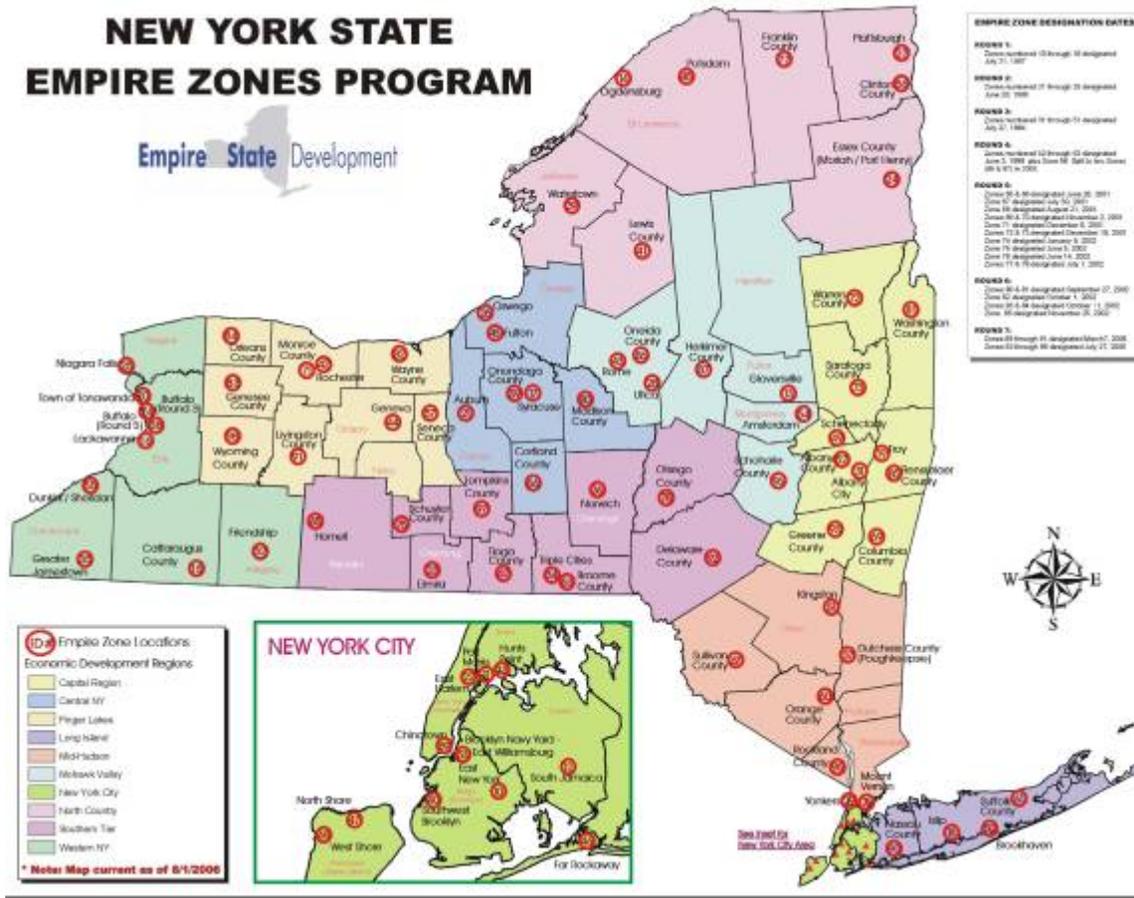
New York's Empire Zone Program

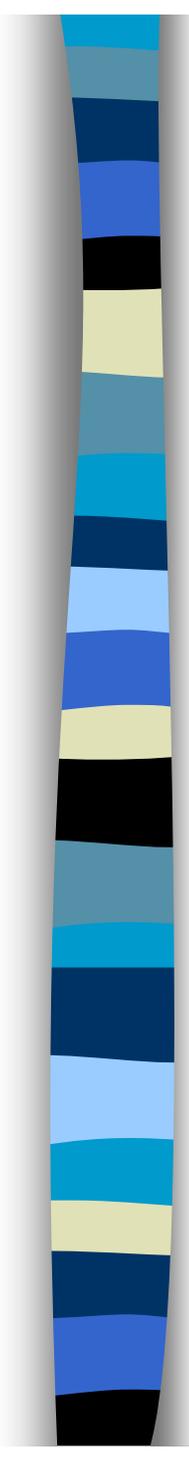
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September 2007



NEW YORK STATE EMPIRE ZONES PROGRAM

Empire State Development





In its August 2007 report to the Empire State Development Corporation, the consulting firm ATKEARNEY described the Empire Zone Program as

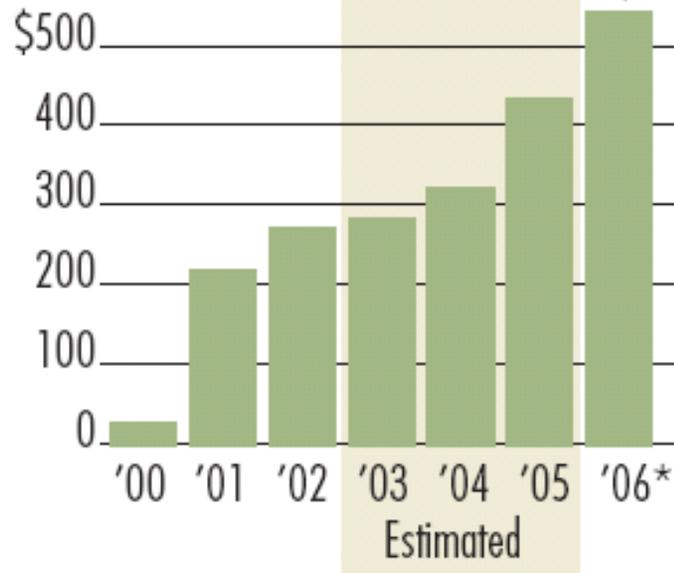
"perhaps the best example of good economic development intentions gone wrong."

- Established in 1986 as Economic Development Zones.
- Name changed to Empire Zones and benefits expanded in 2000.
- Currently 9,800 certified businesses employing more than 380,000 people in 82 Empire Zones statewide.
- 85 zones statewide before the end of 2007.
- Cost has jumped from \$30 million in 2000 to a projected \$558 million in 2007.
- Administered by the NYS Department of Economic Development doing business as Empire State Development.

Empire Zone costs

The state's cost of zone benefits is soaring.

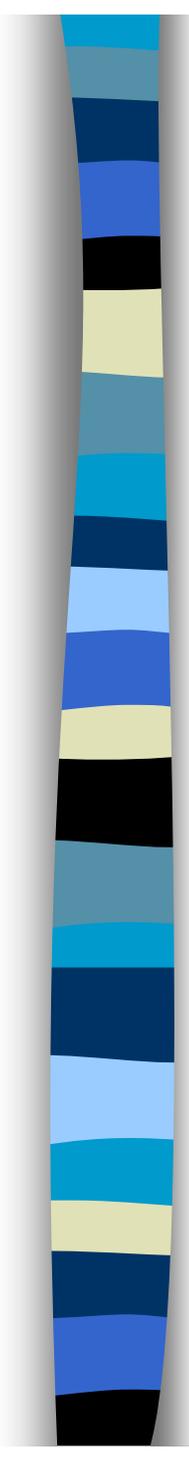
IN MILLIONS



* projected

(The figures don't include \$532.8 million worth of credits that corporations have earned but not used. They could use those credits in future tax years to reduce their corporate income tax liability.)

Source: State Department of Taxation & Finance



Empire zone tax benefits

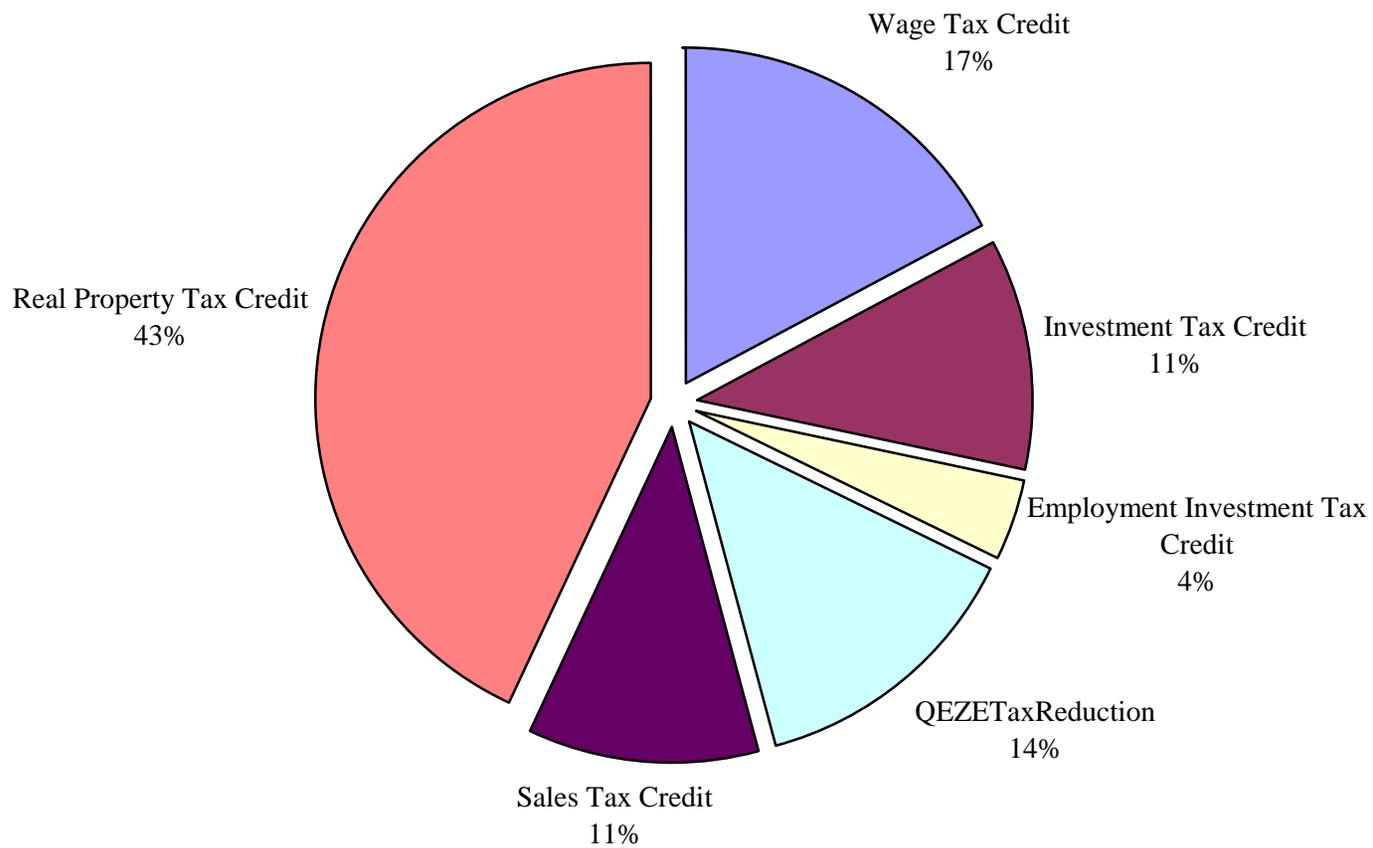
- Sales tax refund on construction materials*
- Real Property Tax abatement on improvements made to the property*
- Wage tax credit**
- Investment tax credit**
- QEZE Sales tax exemption***
- QEZE Real property tax credit***
- QEZE Tax reduction credit***

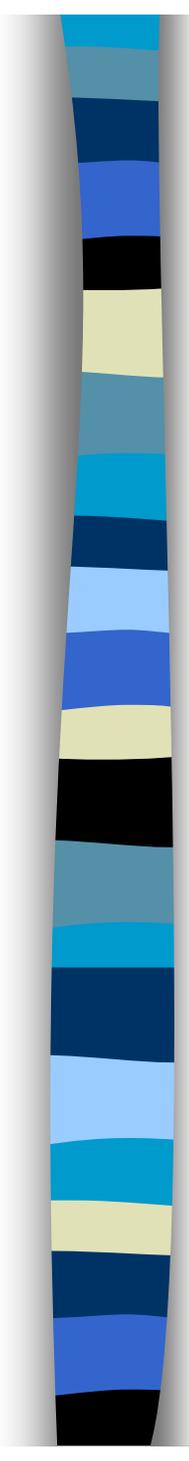
* These tax credits are available to any business located within a zone.

** These credits require certification of job creation or investment.

*** These require job creation.

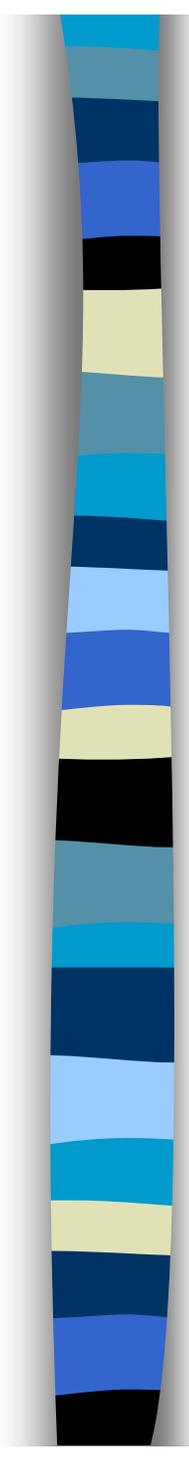
Empire Zone Tax Credits: 2003-2005 By Tax Credit Type





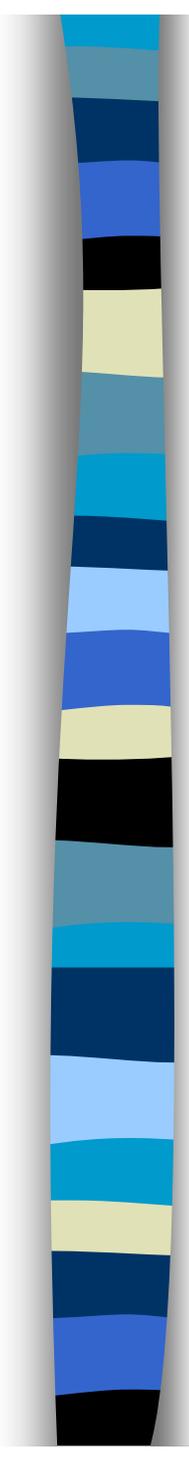
Not New York's first attempt to provide geographically targeted economic development benefits

- The Job Development Authority was created in 1962. Five years later was a statewide program.
- Urban Job Incentive Program was created in 1968 with strong targeting requirements.
 - By 1979 JIP was statewide.
 - Shut down in 1983.



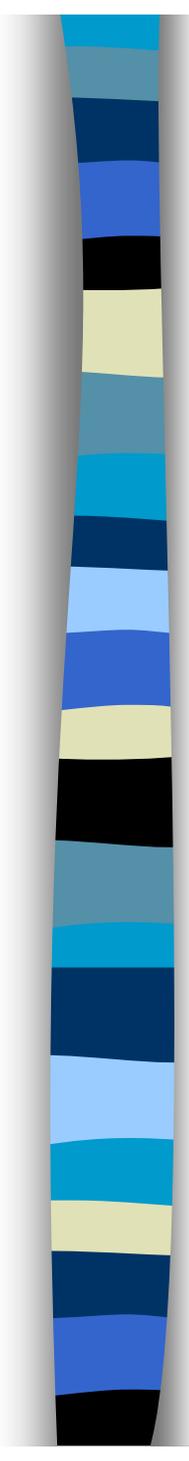
Original EZ statute tried to protect new program

- Targeted to high unemployment, high poverty areas.
- Rules about boundary amendments designed to prevent gerrymandering and political pressure to extend zone benefits.
- Even original legislation had some loopholes to reduce impact of targeting.



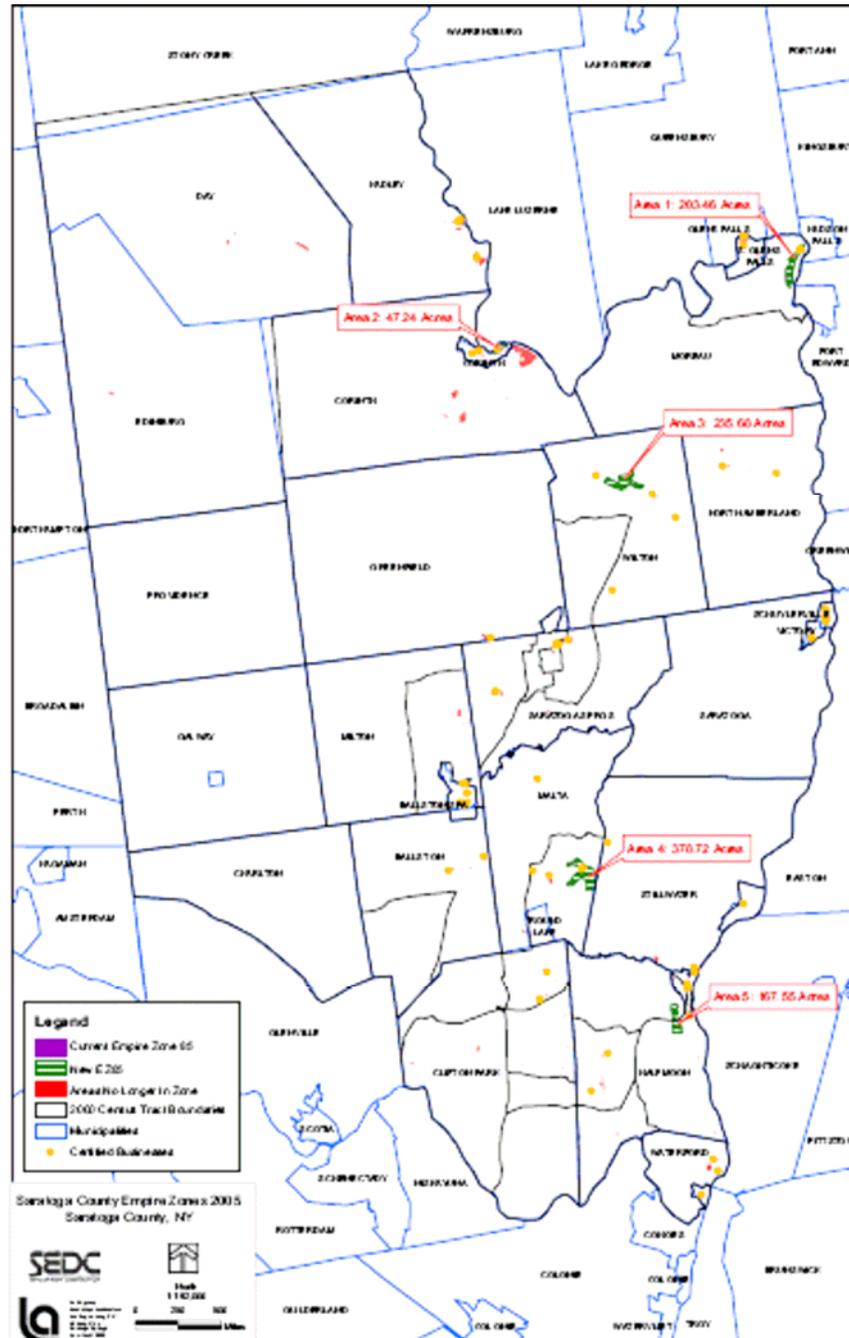
Two changes to the statute were particularly responsible for lessening the targeting

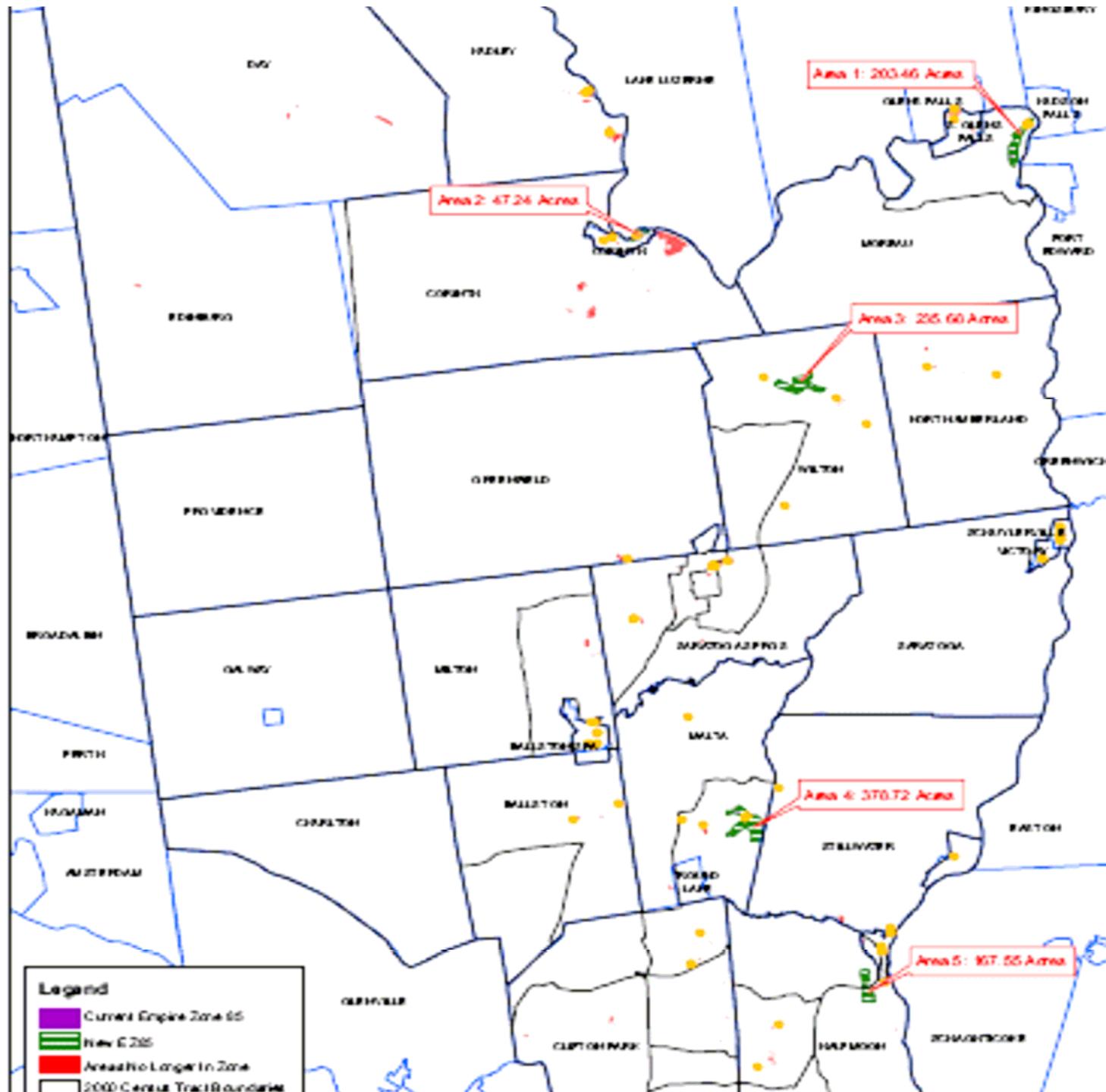
- Counties in which there was the “possibility” of job loss could qualify for the program.
- 2000 administrative rule change allowed more than three noncontiguous parcels to each zone.
- In same year, legislature enhanced the tax credits and benefits.

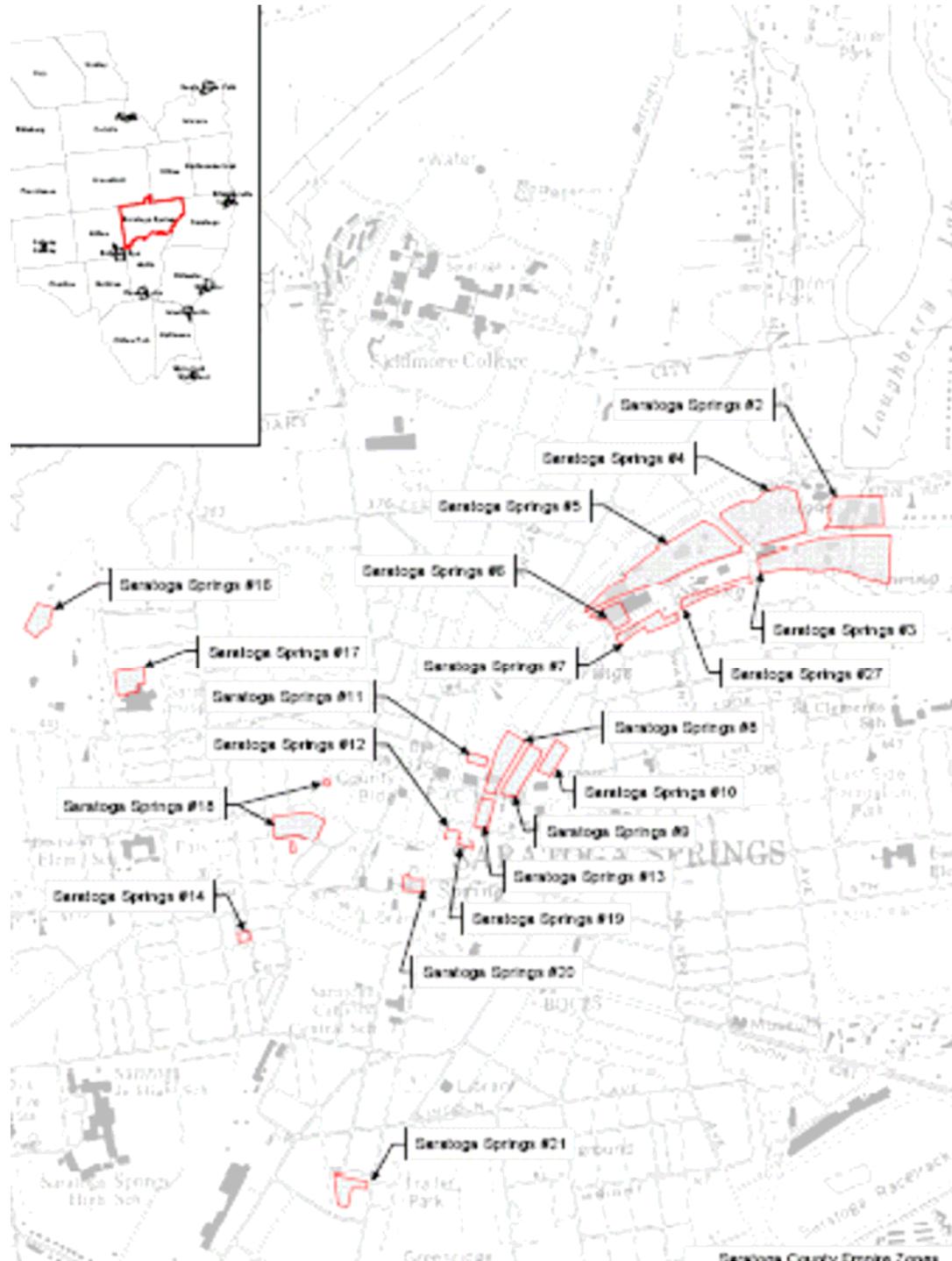


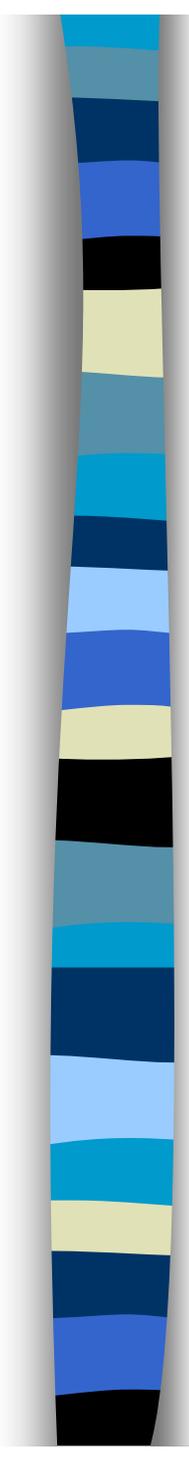
Saratoga County Empire Zone is a good example of boundary “amendments” gone wild

- Originally certified based on an article that GE might downsize.
- Saratoga County Zone now consists of five “areas” – each in a different part of the county – originally just scattered parcels but 2005 law forced consolidation.
- Outside these areas, dozens of individual parcels have been made parts of the “zone.”
- In Saratoga Springs, one of the most prosperous small cities in the state, at least 27 different small parcels have been incorporated into the zone.



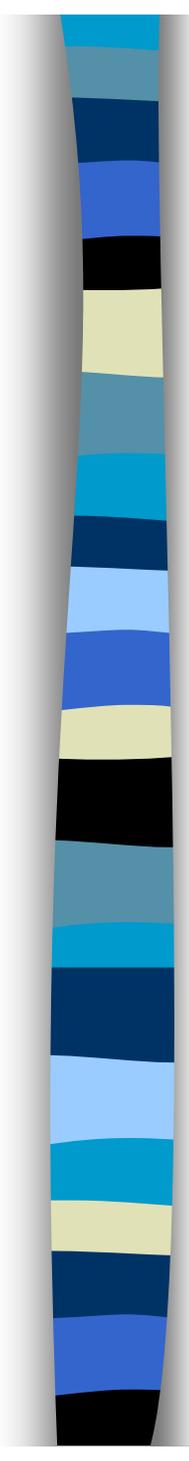






Monroe County Empire Zone provides another example

- Between July 2002 and October 2003, the Monroe County Empire Zone made forty-two separate amendments to the boundary of the Zone to include new properties.
- Twenty-five of the forty-two amendments were granted on the sole justification that buildings on those properties were "vacant" with no promise of job creation, job retention or increased capital investment.



Shirtchangers represent another abuse of the program

- Investigative reporters at the Syracuse Post Standard found a number of well established businesses reincorporated in order to take advantage of benefits as “new” corporations.

How businesses made themselves appear new

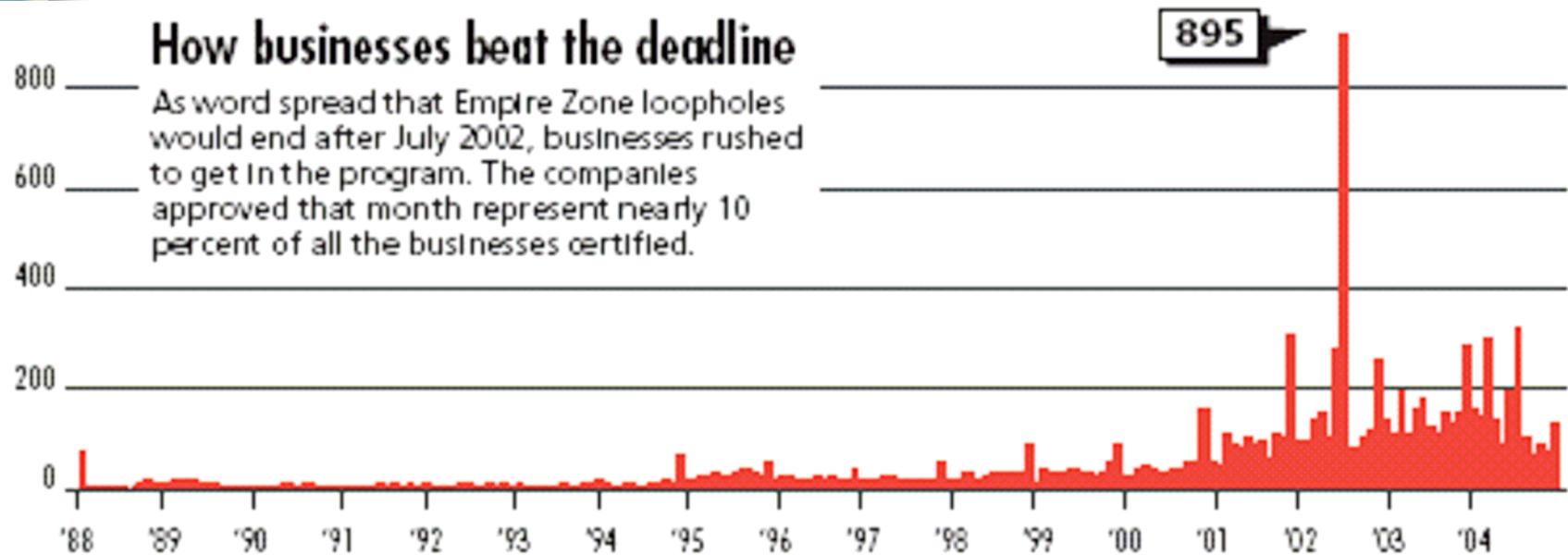
Some Empire Zone companies that assumed new identities, qualifying them for the most tax breaks. (Note: Date refers to when predecessors started; benefits includes either zone tax breaks or property taxes eligible for reimbursement.)

Company	Date of origin	What's new	Benefits
Anaren Microwave Inc., East Syracuse	1967	Moved assets to holding company	2006 property taxes: \$164,598
Birds Eye Foods, Fulton	1902	Put real estate into BEMSA Holding Inc.	2006 property taxes: \$187,154
Buffalo Sabres	1970	Tom Golisano bought team, created two corporations	2003 credits: \$541,000
Cliffstar Corp., Dunkirk	1899	Put real estate into Star Real Property	2006 property taxes: \$364,640
Corning Inc.	1851	Put real estate into Corning Property Management Corp.	2003 credits: \$4.6 million
Crucible Specialty Metals, Geddes	1876	Put real estate into Crucible Development Corp.	2006 property taxes: \$783,786
Harden Furniture, McConnellsville	1844	Reincorporated as Harden Holdings Inc. in Delaware	2003 credits: \$332,083
High Falls Brewing Co., Rochester	1878	Genesee Brewing managers bought the assets, renamed company	2003 credits: \$1.3 million
Welch Allyn, Skaneateles Falls	1915	Put real estate into Allyn Development Co.	2003 credits: \$321,051

Sources: State and local records, interviews

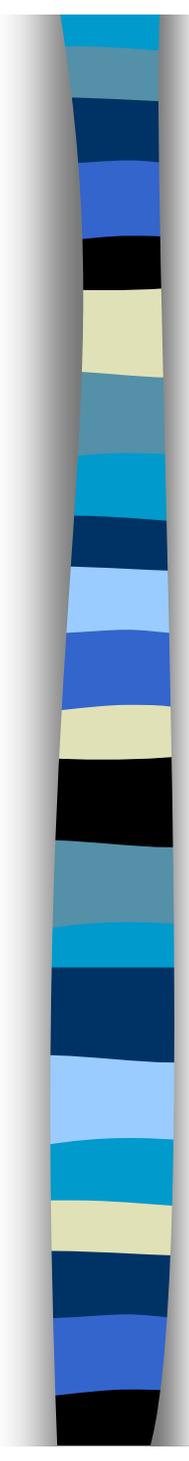
How businesses beat the deadline

As word spread that Empire Zone loopholes would end after July 2002, businesses rushed to get in the program. The companies approved that month represent nearly 10 percent of all the businesses certified.



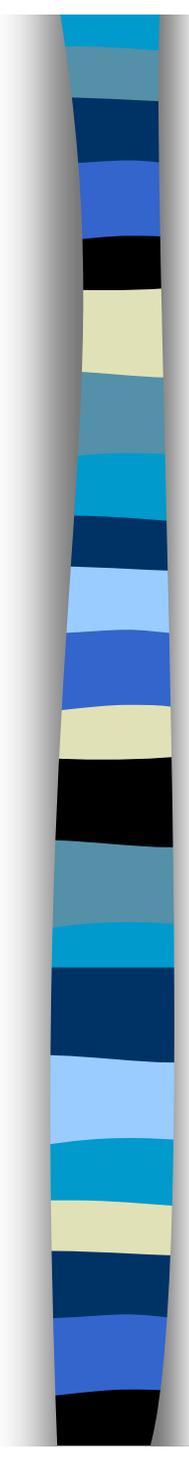
Source: New York Department of Economic Development records

The Post-Standard



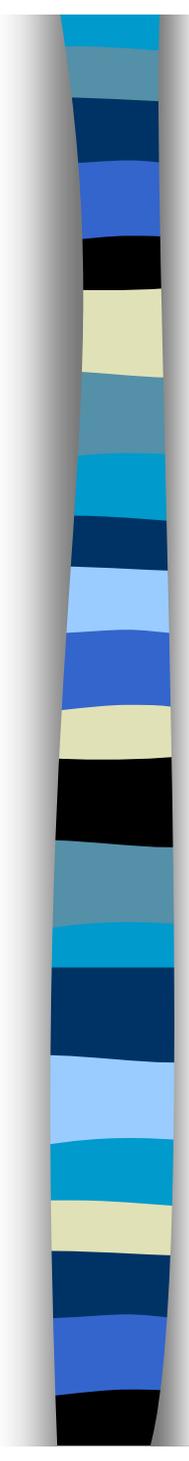
Benefits from other programs linked to zone occupancy

- Industrial development agencies generally are not allowed to provide financing for retail projects.
 - In situations where a retail project is located in a “distressed census tract or adjacent to a distressed census tract,” it is possible for the IDA to undertake a retail project. “Distressed areas” for this purpose are defined to include all areas within an Empire Zone.



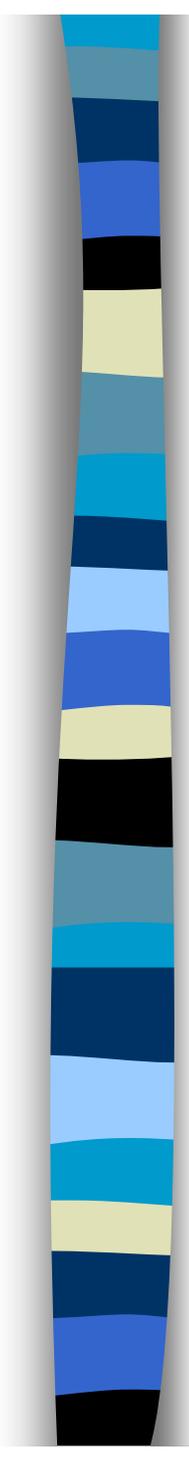
2004 audit by the Office of the State Comptroller

- 47 percent of businesses that received tax breaks created fewer jobs than they promised.
- 23 percent actually lost jobs.
- Zone businesses received tax breaks that far exceeded benefits provided to the communities in which they are located, by \$112,500 on average per business.



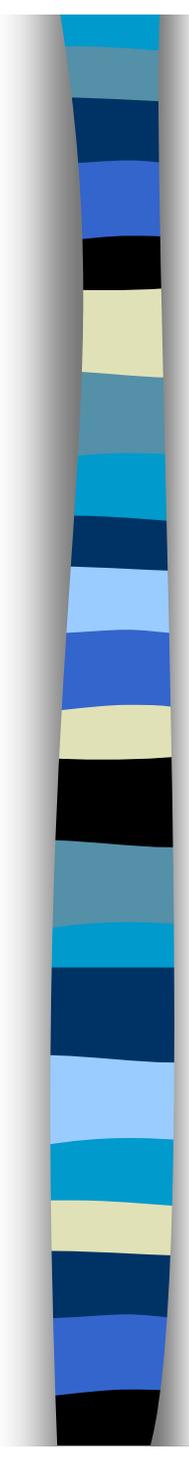
2005 reforms tried to get at major areas of abuse

- Some benefits were scaled back based on number of jobs created and quality of jobs created.
- Shirtchanging prohibited unless “valid business purpose”.
- Noncontiguous parcels must be shown to be “regionally significant.”
- Enhanced benefits to manufacturing and all businesses in zones that fit the original criteria.
- Grandfathering existing benefits to existing businesses extremely diluted the impact of the reforms.



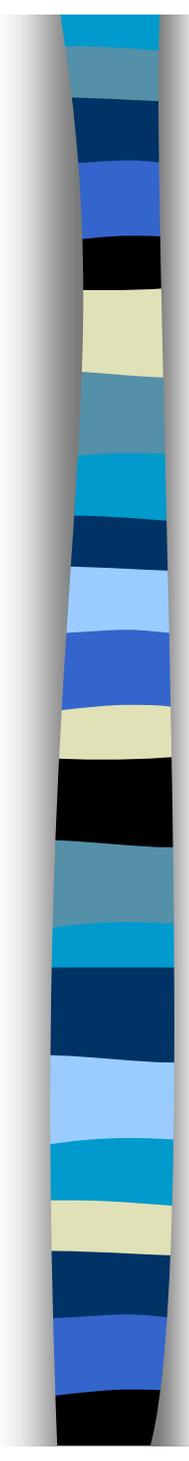
Job quality incentives

- For manufacturing companies and companies in zones meeting original poverty and unemployment criteria:
 - Property tax credits are calculated at 25 percent of annual wages (up to \$40,000).
 - A firm creating a \$40,000 a year job would receive twice the tax credit received by a firm creating a \$20,000 a year job.
- Wage tax credit (\$1,500 per employee and \$3,000 per targeted employee) increased by \$500 for each individual that received in excess of \$40,000 in wages a year.



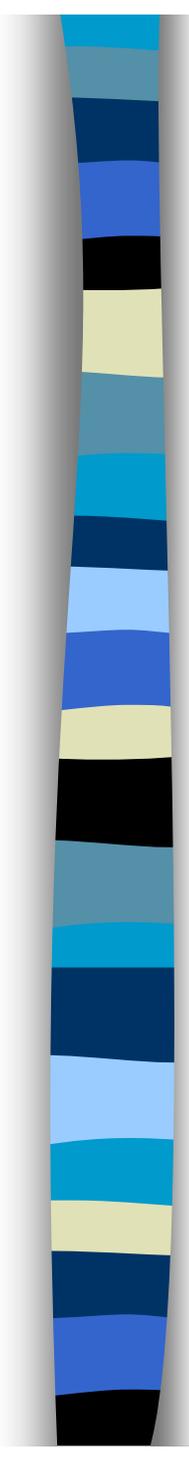
Tax credits for firms which are not involved in manufacturing and not in a distressed area tied to number of jobs created.

- Firms creating 1-10 jobs are eligible for 25 percent of the property tax credit (25% of annual wages up to \$10,000 per employee).
- Firms creating 11-49 jobs are eligible for a 50 percent of the property tax credit.
- Firms creating 50-75 jobs are eligible for a 75 percent of the property tax credit.
- Firms creating 75-100 jobs are eligible for a property tax credit, with the percentage of taxes eligible for the credit calculated by dividing the number of jobs created by 100.
- Firms creating more than 100 jobs are eligible to a credit equal to 100 percent of the property tax credit.²²



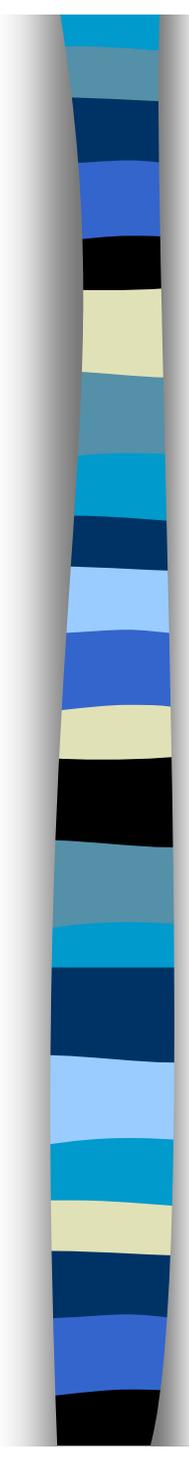
New accountability measures

- Independent report on the performance and usefulness of the Empire Zones program required in 2009.
- NYS Office of Taxation and Finance to produce a performance report that includes all job creation information.



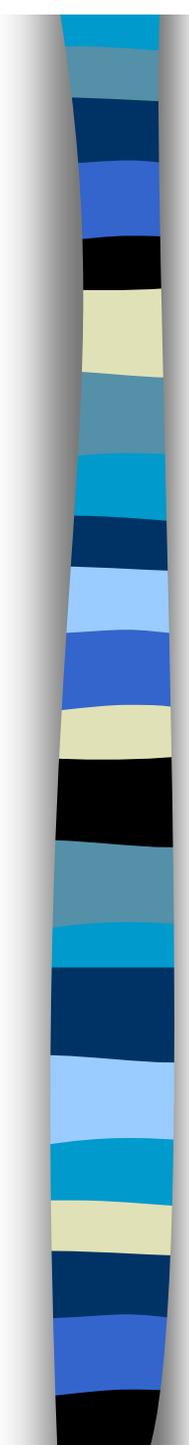
Spitzer administration: 3,000 letters to under performers

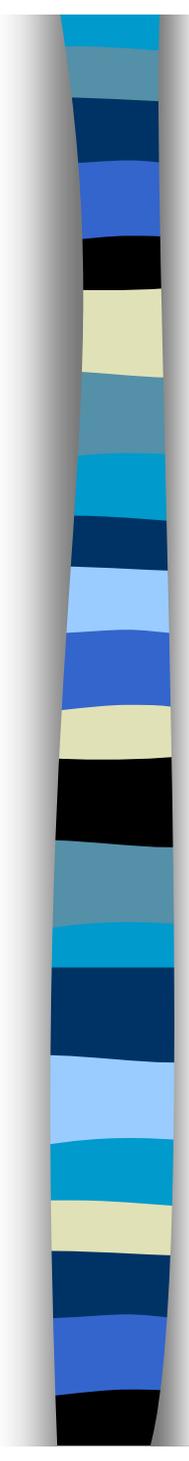
- Based on the report on job performance, for the first time in the programs history, firms are being asked to show why they deserve to stay in the program.



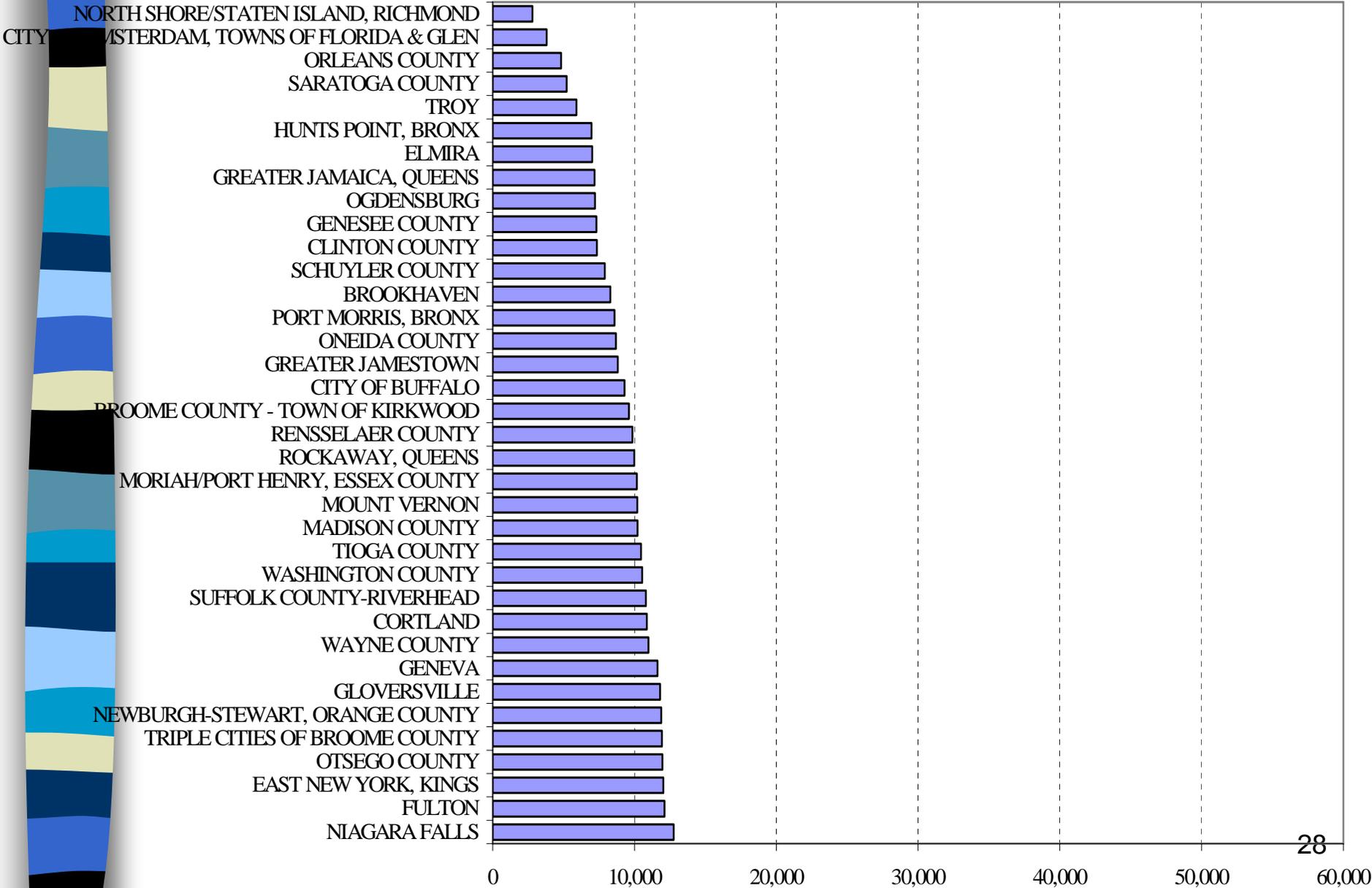
Changes are still needed

- Implement full, annual disclosure of the benefits received and the jobs provided by each participating business. This information should be posted on the internet to allow for greater transparency.
- Strengthen rather than weaken the program's focus on the state's neediest areas by prohibiting zone designations in areas other than census tracts that meet economic hardship criteria and immediately adjoining census tracts in the same community. Similarly, the extension of existing zones boundaries into areas other than census tracts meeting economic hardship criteria should be eliminated.

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- Require the Commissioners of Labor and Economic Development to hold well advertised and timely public hearings on all proposed business certifications, all contested de-certifications and all proposed boundary amendments. Hearings on boundary amendments held by local legislative bodies on the local laws making those boundary amendments should not be allowed to substitute for hearings by the Commissioner.
 - Require that all of the tax breaks and other benefits available to participating firms be based on the number and quality of the jobs actually created.
 - Strengthen the program's job quality standards and the application of these standards to all zone benefits.

- 
- Limit the total amount of all tax benefits available “per employee,” in any given year, to the lower of (a) \$10,000 or (b) 20 percent of the total of the wages paid to the employee involved and the health insurance premiums paid on behalf of such employee.
 - Apply de-certifications for cause to all periods beginning with the earliest documented date of the infraction on which the de-certification is based and require that any benefits received during such period by a decertified firm should be subject to mandatory repayment.

Empire Zone Benefits per Job Created: 2005



Empire Zone Benefits per Job Created: 2005

