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Cover Page Footnote

Executive Vice President of the New York State Bankers Association; Chairperson of the Board of Trustees of the City University of New York. B.A. 1952, Manhattan College. J.D. 1957, Fordham University School of Law.

ALLIANCE FOR GROWTH: STIMULATING URBAN REVITALIZATION THROUGH CORPORATE, GOVERNMENTAL AND COMMUNITY COOPERATION

*James P. Murphy**

I. Introduction

One phenomenon which threatens to be debilitating to the United States and its inhabitants is the precipitous decline in population suffered by many cities during the past decade.¹ Unless this trend is reversed, the metropolitan areas of the northeast and midwest, once vital ingredients in the United States' transformation from a rural, agrarian economy into a world industrial and cultural bellwether, could become serious impediments to progress in the years ahead.²

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1. Preliminary figures from the 1980 census indicate the following drops:

St. Louis, Mo.	—27.9	Boston, Mass.	—12.3
Cleveland, Ohio	—23.8	Chicago, Ill.	—11.9
Detroit, Mich.	—21.3	Milwaukee, Wis.	—11.8
Pittsburgh, Pa.	—18.5	New York, N.Y.	—11.1
Washington, D.C.	—16.1	San Francisco, Cal.	— 5.8
Philadelphia, Pa.	—13.8	Indianapolis, Ind.	— 4.8
Baltimore, Md.	—13.5		

BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, PRELIMINARY 1980 CENSUS COUNTS 4 (Dec. 23, 1980).

2. A report issued by the Northeast-Midwest Congressional Coalition warned that "[i]f left unchecked, the economic troubles of America's industrial North could threaten the stability of every region. . . . The entire country will suffer if the Midwest and Northeast, with 45 percent of the nation's population, are allowed to decline." N.Y. Times, Mar. 14, 1981, at 10, col. 2.

A study conducted by Richard P. Nathan of Princeton University and James W. Fossett of the University of Michigan concluded that the nation's oldest cities are continuing to decline in both population and per-capita wealth. An "urban conditions" index for about 60 of the nation's largest cities was established, based on age of housing stock, population loss and the concentration of poverty from 1960 to 1970. The cities were ranked in five groups ranging from most depressed to least depressed, as follows:

Group I - St. Louis, Boston, Newark, Buffalo, Pittsburgh, Cleveland, Philadelphia, Rochester, Detroit, Cincinnati and Minneapolis.

Group II - Baltimore, Birmingham, Toledo, Louisville, Chicago, New Orleans, St.

There are other disturbing developments as well. The quality of life in many urban centers is retrogressing.³ Neighborhoods are deteriorating and are no longer the unifying forces they once were.⁴ Roads, water mains, bridges and buildings are in various stages of disrepair, some bordering on the dangerous.⁵ Investment is down;⁶ job creation is minimal; and millions of men and women are either

Paul, New York, Kansas City, Oakland and Akron.

Group III - Portland, San Francisco, Milwaukee, Omaha, Columbus, Miami, Memphis, San Antonio, Seattle and Denver.

Group IV - Oklahoma City, Atlanta, Norfolk, Fort Worth, Baton Rouge, Los Angeles, Austin, Sacramento, Tulsa and Wichita.

Group V - Charlotte, Long Beach, El Paso, Tampa, Houston, Dallas, San Diego, San Jose, Albuquerque, Phoenix and Tucson.

N.Y. Times, July 7, 1980, at B7, col. 1.

3. Many feel that the decline taking place not only reduces the quality of life for the remaining population but also leads to the inevitable running down of the capital plant of the city, depriving present and future residents and nonresidents of the esthetic, cultural, and even social pleasures of a healthy city. They argue that preserving an option for the dense city is of great importance and that 'saving' such places from extreme decline therefore deserves high national priority.

W. GORHAM & N. GLAZER, *THE URBAN PREDICAMENT* 26 (1976).

4. "[E]ven the glamour of Park Avenue faces the threat of being carried to the gutter with the dilapidated neighborhoods as New York's financial problems stymie efforts at revival." Williams, (*IV*) *Is There Hope for the American City?*, Wash. Post, Feb. 24, 1981, at 15, col. 1. As middle-class blacks and whites leave other major American cities, so do the "supermarkets, fruit stands, department stores, city neighborhoods with mom-and-pop stores and the vitality of a vibrant night life." *Id.* at 15, col. 3.

5. The New York City Planning Commission stated that the city's highest priority should go to rebuilding its infrastructure, that is, its bridges, tunnels, water mains, sewers, mass transportation system and streets. The commission felt that the gap between a desirable replacement cycle and the current cycle is inadequate. For example, the present repavement cycle is every 180 years despite engineering analyses which suggest that roads be repaved every 20 to 40 years. Similarly, water mains should be replaced every 80 to 100 years although New York City's replacement rate is every 296 years. Sewers are replaced every 300 years notwithstanding the desirable 100 year replacement cycle. THE NEW YORK CITY PLANNING COMM'N, *CAPITAL NEEDS AND PRIORITIES FOR THE CITY OF NEW YORK* x (1979). See generally N.Y. Times, Aug. 7, 1980, at A1, col. 1 (litter overflowing streets of New York City).

6. According to a recent Regional Plan Association study, gross private investment in New York City dropped from \$6.1 billion in 1972 to \$4.6 billion by 1975, that is roughly one third. R. ARMSTRONG, *REGIONAL PLAN ASS'N, REGIONAL ACCOUNTS: STRUCTURE AND PERFORMANCE OF THE NEW YORK REGION'S ECONOMY IN THE SEVENTIES* 33 (1980).

unemployed or underemployed.⁷

American cities are faced today with many urgent problems. This Article, in section II, will examine these problems which are currently contributing to urban decay. Some possible solutions to these problems, including a survey of current programs as well as new proposals to ameliorate conditions in the cities, will be set forth in section III. Finally, this Article will explore the general policies underlying an effective urban renewal program.

II. Problems Contributing to Urban Decay

Compounding the pessimistic outlook for urban growth in the northeast and midwest is the fact that the numerous government and private sector programs designed to encourage economic expansion have concentrated on the manufacturing sector,⁸ at a time

GROSS PRIVATE INVESTMENT IN STRUCTURES AND EQUIPMENT BY INDUSTRY AND SUBREGION
IN 1972 AND 1975 (IN CURRENT \$000,000)

	1972		1975	
	New York City	New York excl. N.Y.C.	New York City	New York excl. N.Y.C.
Agr. & Mining	\$ 0.8	\$ 29.7	\$ 3.4	\$ 34.5
Construction	82.8	46.8	114.7	64.3
Manufacturing	539.6	277.3	570.1	433.7
Durable	165.2	161.0	189.8	277.1
Nondurable	374.4	116.3	380.3	156.6
Transportation	648.1	60.0	613.7	57.0
Communication	1,039.2	259.2	966.7	240.1
Utilities	822.2	290.6	598.8	590.3
Wholesale Trade	159.9	114.1	91.8	79.7
Retail Trade	91.5	183.5	52.5	128.2
Finance, Insur., R.E.	1,670.7	1,076.6	494.5	625.2
Finance, Insur.	85.8	89.3	117.9	177.5
Real Estate	1,584.9	987.3	376.6	447.7
Services	1,051.1	362.3	1,057.0	302.9
Nonprofit	268.7	159.3	242.2	72.3
Other	782.4	203.0	814.8	230.6
Private Gross Investment	\$6,105.9	\$2,700.1	\$4,563.2	\$2,555.7

Id. at 37.

7. One study which examined the changes in United States economic conditions that occurred during the early 1970's found that industrial employment in the northeast declined by 0.6% between 1970 and 1975, while it rose 14.7%, 55.8% and 30.1% in the north-central, southern and western regions respectively. H. HOVEY, *NORTHEAST-MIDWEST INST., DEVELOPMENT FINANCING FOR DISTRESSED AREAS 3* (1979).

8. For example, the *Job Incentive Program* was begun in New York in 1968 to help

when growth opportunities are shifting from this sector towards service industries.⁹ Additionally, resistance to urban programs is mounting in some quarters.¹⁰ This resistance can be traced, in part, to the feeling of *deja vu*, if not exasperation, over the many programs that have not fully realized the goals originally set by urban planners. Moreover, the political shift to the right over the past several years¹¹ has done little to alleviate the problem. As a

small manufacturers create jobs in impoverished urban areas. Today, more than 1,700 companies receive corporate tax relief for having expanded their plants and added employees to their payrolls. See *N.Y. Times*, Mar. 10, 1981, at A1, col. 1.

9. Current employment figures reveal that hiring is on the rise in finance, insurance, real estate and other service areas, whereas the jobless rate in durable goods rose to 11.2% in the third quarter of 1980 and reached 8.8% in nondurables. The manufacturing sector, once the largest employer in the United States, now ranks third in terms of number of jobs, having been passed by the service industries, which now constitute almost half of the economy, as well as by the wholesale and retail trade. *FORTUNE*, Jan. 26, 1981, at 10.

10. For example, a bill which would have raised the budget of the Economic Development Administration from \$700 million to more than \$1.2 billion, thereby qualifying it as "a very important piece of legislation . . . for the cities," was defeated in a congressional conference committee in the last months of the Carter Administration. *N.Y. Times*, Sept. 20, 1980, at A1, col. 6. More recently, President Reagan has proposed the almost total elimination of Economic Development Administration financing over the next two years. Montgomery, *U.S. Freeze on Grants Perils Projects in New York Region*, *N.Y. Times*, Mar. 12, 1981, at B1, col. 5. A growing number of northeastern and midwestern lawmakers are concerned that President Reagan's proposed budget and tax cuts would accelerate the decline of these urban areas while encouraging the growth of prosperous states in the south and southwest. Roberts, *Sun-Belt Bias Laid to Reagan Proposals*, *N.Y. Times*, Mar. 1, 1981, at B1, col. 1. Similar fears have been expressed by the National League of Cities. See *N.Y. Times*, Mar. 3, 1981, at A1, col. 6 (President Reagan's general tax cut program would, in the League's view, "encourage industrial flight from central cities' because of a lack of strong incentives to modernize inner-city industry"). See also Rattner, *Mayors Criticize Reagan Budget Cuts, Saying Municipalities Are Hurt Worst*, *N.Y. Times*, Mar. 13, 1981, at A15, col. 3 (study by the United States Conference of Mayors contended that "the fiscal year 1982 budget proposed by the Reagan Administration promises to restore economic health to the nation but is a disaster for the cities").

11. A researcher from the Center for Political Studies at the University of Michigan's Institute for Social Research analyzed American National Election Study data and concluded:

For a fairly long period of time . . . from 1964, when we first measured ideology, through 1978, there was essentially no change at all in the proportions of people who identified themselves as liberals, moderates, or conservatives: about one-quarter said they were liberals, one-third said they were conservatives, and the rest claimed to be moderates. But after 1978, there is clear evidence of a shift to the right; in early 1980, 45 percent of our representative sample said they were conservatives.

INST. FOR SOCIAL RESEARCH, UNIV. OF MICHIGAN, ISR NEWSLETTER, ELECTION '80 REVIEWED 3 (Spring 1981).

It has been stated that "[a] scattered society seems to be a more conservative one in many

result, there has been a considerable disparity in the distribution of federal funds to the different regions of the United States, with the urban centers suffering adverse consequences.¹² The less than fervent pro-city support in Congress will no doubt be weakened further as shrinking urban populations result in metropolitan areas receiving less political representation.

Perhaps most discouraging is that the moods and perceptions about the advantages of city life, in addition to the average citizen's desire to enhance these advantages, have significantly changed for the worse since the 1940's and 1950's. During that period, many young people felt optimistic about their future despite their families' bleak financial condition.¹³ These young people

respects. . . . [T]he trend toward conservatism is reinforced by other changes - by the fact that the population is older and contains more retired people living on fixed incomes." Herbers, *U.S. Profile: The Changing Features Also Change Voters*, N.Y. Times, Nov. 2, 1980, § IV at 2-3, col. 2.

12. According to John F. McGillicuddy, chairman and president of the Manufacturers Hanover Trust Company,

the economically troubled Northeast and the Great Lakes regions *paid* to the Federal government, net of what they received, some \$29.4 billion in 1975 alone. Meanwhile the economically resurgent South and West *received*, net of their contribution, some \$22.1 billion. Certainly these vast flows of money have a bearing on the prosperity of these different regions.

Address by John F. McGillicuddy, 37th Award Dinner of the Moles, *Our Older Cities: An Endangered Species?* at 8 (Jan. 26, 1977) (emphasis in original) (text of remarks on file with *Fordham Urban Law Journal*). Mr. McGillicuddy also referred to New York Senator Daniel Patrick Moynihan's observation that if agricultural subsidies were distributed on the same basis as mass transit subsidies, "Manhattan would get as much as Kansas." *Id.*

13. One study reveals that almost half of those polled in 1958 were "pretty sure" that their future would fulfill their expectations. The 18-24 year old age group returned a 57.3% "optimism" rate.

Question: Have you usually felt pretty sure your life would work out the way you want it to, or have there been times when you haven't been (very) sure?

	1958	1960	1964	1968	1970	1971	1972	1974	1976
Pretty sure	46.3%	47.0%	46.6%	38.3%	37.7%	40.0%	35.9%	35.7%	36.7%
Depends	0.2	0.6	0.5	0.4	0.3	0.4	0.1	**	**
Sometimes not very sure	52.8	51.9	52.4	58.5	59.9	59.6	62.2	62.7	61.2
Don't know	0.7	0.5	0.5	2.7	2.0	**	1.8	1.6	2.1
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

P. CONVERSE, J. DOTSON, W. HOAG, W. MCGEE III, *AMERICAN SOCIAL ATTITUDES DATA SOURCEBOOK 1947-1978 7-8* (1980).

shared a feeling of pride in living in a city rich in social, cultural and economic resources. Whether it was in New York, Boston, Philadelphia, Chicago, Detroit or Washington, the future looked bright for all those willing to expend time and effort in the classroom and workplace. Indeed, most were able to reach or exceed the ambitious goals their parents had set for them.

Today, these same feelings are evident in some parts of the country, most noticeably the southwest,¹⁴ but are far from the prevailing sentiment in the urban northeast and midwest. In fact, there are those who contend that despair is the dominant mood in many urban neighborhoods.¹⁵ The optimism that formerly transcended religious, ethnic, racial and other demographic lines is no longer characterized by such versatility. Blacks, Hispanics and the aged, all growing segments of the urban populace,¹⁶ are justifiably skeptical about whether the great American dream of economic success is still a realistic one for all citizens.¹⁷

14. City residents, as well as suburban and town/rural residents of the southern region of the United States, indicated in a government survey the highest overall satisfaction with their locale. See DIV. OF POLICY STUDIES, OFFICE OF POLICY DEVELOPMENT AND RESEARCH, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, *THE 1978 HUD SURVEY ON THE QUALITY OF COMMUNITY LIFE* 29 (1978).

15. A survey conducted by Louis Harris and Associates, Inc., revealed that city residents are least satisfied with their personal safety and with their city as a place to raise children, in sharp contrast to their suburban and town/rural counterparts. Moreover, the city's image today as a place to live and raise children is overwhelmingly negative. OFFICE OF POLICY DEVELOPMENT AND RESEARCH, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, *A SURVEY OF CITIZEN VIEWS AND CONCERN ABOUT URBAN LIFE* 5, 9 (1978).

16. Although the white population in urban areas increased by approximately 15% from 1960 to 1970, the black population in these same areas increased by almost 50%. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, *STATISTICAL ABSTRACT OF THE UNITED STATES* 35 (1979). In the past decade, the number of people age 65 and older grew by more than 24% and the median age went up by more than two years. Herbers, *U.S. Profile: The Changing Features Also Change Voters*, N.Y. Times, Nov. 2, 1980, § IV at 3, col. 2.

17. The flight of middle-class Americans and jobs from the central cities has resulted in large concentrations of blacks, Hispanics and the elderly in these urban centers. See note 16 *supra*. Although the cause of this exodus is currently the subject of debate, see W. WILSON, *THE DECLINING SIGNIFICANCE OF RACE* (1978), the fact remains that many blacks are still poor after a decade in which many others have found opportunities in business and government. See Herbers, *Cause of Middle-Class Exodus From Cities Is Debated as Racial Tensions Rise*, N.Y. Times, Aug. 3, 1980, at A16, col. 1.

Isolation of the poor [in the central cities] has contributed to the growth of the discouraged worker — those people not counted in the labor force because they say they are so convinced they cannot find suitable jobs they have given up looking. In 1972 there were 760,000 such persons. Today there are just under 1 million. Herbers, *U.S. Profile: The Changing Features Also Change Voters*, N.Y. Times, Nov. 2,

III. Possible Solutions To the Problems Plaguing the Cities

It is clear that the future of our major cities must become a prime concern of the individuals and institutions that exert influence over the country's progress. This section will first examine the role that the government and private sector should assume in the economic development process. A survey of current programs as well as proposals to ameliorate conditions in the cities will also be set forth.

A. The Proper Government Role

As the new administration assumes the management of an economy that is among the most changeable, problem-ridden and unpredictable of any the United States has ever encountered,¹⁸ the need for an economic and spiritual uplifting for demoralized cities and their inhabitants could not be more pressing. The alternatives available to the government are numerous, as are the questions raised should any one of them be adopted. For example, the government could either accelerate its lending programs now, or

1980, § IV at 3, col. 2. See also Rule, *City's Poor Blacks Say That Their Hopes of the 1960's have Dried Up*, N.Y. Times, July 30, 1980, at B1, col. 1. See generally THE NATIONAL ADVISORY COMM'N ON CIVIL DISORDERS, REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS (1968) (The "Kerner Report"); Herbers, *Decade After Kerner Report: Division of Races Persists*, N.Y. Times, Feb. 26, 1978, at A1, col. 1; Reinhold, *Poll Indicates More Tolerance, Less Hope*, N.Y. Times, Feb. 26, 1978, at A28, col. 1; Nordheimer, *1978 Race Relations: 3 Widely Divergent Views*, N.Y. Times, Feb. 27, 1978, at A1, col. 4; Wilkins, *The Kerner Report of 1968 Was One Element in a Year of Hope, Violence and Despair*, N.Y. Times, Feb. 27, 1978, at A14, col. 1; Roberts, *Black Progress and Poverty Are Underlined by Statistics*, N.Y. Times, Feb. 28, 1978, at A22, col. 1; Sterne, *In Last Decade, Leaders Say, Harlem's Dreams Have Died*, N.Y. Times, Mar. 1, 1978, at A1, col. 1.

A New York Times study of Hispanic New Yorkers revealed that an overwhelming majority saw themselves as victims of discrimination and at the bottom of the social ladder. N.Y. Times, May 11, 1980, at B1, col. 1. See also PROGRAM DEVELOPMENT UNIT, CAREER SERVICES AND JOB PLACEMENT PROGRAM, NATIONAL PUERTO RICAN FORUM, THE NEXT STEP TOWARD EQUALITY (1980).

18. In his report on the state of the nation's economy, President Reagan stated that "we're in the worst economic mess since the Great Depression." Address by President Reagan (Feb. 5, 1981), N.Y. Times, Feb. 6, 1981, at A12, col. 1. See also Testimony by Felix G. Rohatyn before the Committee on Ways and Means, United States House of Representatives (Mar. 5, 1981), reprinted in *The New York Review of Books*, Apr. 16, 1981, at 16, col. 1 ("[t]hat Henry Kaufman of Salomon Brothers predicts a year-end prime rate in excess of 20 percent while David Stockman predicts a rate below 10 percent underlines the unpredictable nature of the situation").

choose to serve only as a lender of last resort. If the government were to follow the former course, questions remain whether such action should take place at the federal, state, city or county level and whether such government-supported programs should concentrate on loans or on venture capital. The public sector must also determine the appropriate blending of public debt and tax appropriations,¹⁹ whether government activities should be approached from a macroeconomic or microeconomic point of view,²⁰ the existing government programs that merit continued funding and those that deserve to be discontinued, as well as the market forces that positively influence economic development and how they can be galvanized to work in concert with government programs. Finally, if the electorate's shift to the right indicates a belief that government should leave the business of business to business, the strength and tenacity of this sentiment must be gauged.

B. Involvement of the Business Sector and Community Organizations

Attention must also be focused on the other key players in the economic development process, namely, the private sector and the scores of community organizations created to improve urban life, because it is unlikely that the government, on its own, can rectify the problems plaguing urban areas. In order to glean concrete evidence of the value of non-governmental efforts and of the relation of these endeavors to government programs, the route that business and community organizations choose to follow should be care-

19. Specifically, this question involves determining which of the two is a stronger inducement to urban growth.

20. For example, a macroeconomic approach to the problem of capital shortages would involve determining whether the country's supply of aggregate savings is adequate to maintain a high rate of gross private domestic investment. In contrast, a microeconomic approach would be concerned with how private capital is allocated among competing users. In addition,

discussions of the . . . [macroeconomic concern] have focused on capital needs over a period of several years (frequently a decade) but without regard to the location of investment, whereas discussions of the . . . [microeconomic concern] usually center on the present functioning of financial institutions and often include an evaluation of how financial practices affect specific geographic areas, industries, and size classes of firms.

G. MEADOWS & J. MITRISIN, CONG. RESEARCH SERV., A NATIONAL DEVELOPMENT BANK: SURVEY AND DISCUSSION OF THE LITERATURE ON CAPITAL SHORTAGES AND EMPLOYMENT CHANGES IN DISTRESSED AREAS 21 (1979).

fully monitored. It is clear, however, that some level of participation by the public and private sectors is required if for no other reason than that failure to address urban ailments now could lead to more serious problems in the future.²¹

C. A Survey of Current Programs

Fortunately, the public and private sectors are in fact focusing time, dollars and manpower on the problems of the cities, evidenced by the multiplicity of programs directed at metropolitan areas. Although many questions of policy direction remain unanswered,²² the difficulties of northeastern and midwestern cities are not being ignored by any means. If anything, some contend that there is duplication and overlapping of efforts, and that an elimination process may be required in order to conduct current urban betterment activities more efficiently.²³ Although it would be impractical to name all of the commendable programs currently making inroads against urban decay, it would nevertheless be enlightening to list a few in order to illustrate the nature of public and private involvement.

1. Public Sector Programs

Included among the many federal activities designed to rescue urban areas from further decline are: loans by the Small Business Administration;²⁴ loans, loan guarantees, technical assistance ser-

21. If there is any doubt about the dangers of inaction, one need only look at the rioting in Watts in the sixties, N.Y. Times, Aug. 12, 1965, at A15, col. 3; N.Y. Times, Aug. 14, 1965, at A8, col. 5, the looting in Harlem and Bedford-Stuyvesant during the New York City blackout in 1977, N.Y. Times, July 14, 1977, at A1, col. 1, and the recent eruptions in Miami, TIME, June 2, 1980, at 10, to realize that urban decline cannot continue unchecked.

22. See text accompanying notes 18-21 *supra*.

23. For example, President Reagan intends to eliminate the \$675 million Urban Development Action Grant program and "fold it" into the so-called Community Development Block Grant program. N.Y. Times, Feb. 4, 1981, at A1, col. 6, B4, col. 3.

24. The Small Business Administration ("SBA") was created in 1953 "to aid and protect the interests of small business by making loans, ensuring small business a fair share of government contracts and purchases, and assisting small businesses in coping with floods and other disasters. SBA provides loans for financing plant construction, conversion or expansion, and for the acquisition of equipment and supplies." NEW YORK STATE URBAN DEVELOPMENT CORPORATION, STATE OF NEW YORK DEPARTMENT OF STATE, A STEP-BY-STEP GUIDE TO RESOURCES FOR ECONOMIC DEVELOPMENT 101 (1980) [hereinafter cited as *Resources For Economic Development*]. See Small Business Act § 7(a), 15 U.S.C. § 636 (Supp. I 1977) (equal opportunity and small business loans); Small Business Investment Act of 1958 § 301, 15 U.S.C. §§ 661-696 (1976) (financial assistance for investment companies which provide ven-

vices and grants by the Economic Development Administration;²⁵ employment and training services by the United States Department of Labor;²⁶ grants and technical studies assistance by the United States Department of Transportation;²⁷ business invest-

ture capital to small business concerns); *id.* §§ 501, 502, 15 U.S.C. §§ 695-696 (1976) (financial assistance for state and local development companies which provide long-term financing to small businesses).

25. The Economic Development Administration ("EDA") of the United States Department of Commerce "has as its primary function the economic improvement of areas with severe unemployment and low family income. Assistance for projects providing employment opportunities is available to public bodies and private enterprises." *Resources For Economic Development*, *supra* note 24, at 34. See Public Works and Economic Development Act of 1965, tit. I, 42 U.S.C. §§ 3131, 3132 (1976) (EDA supports public works projects needed to attract new industry and encourage business expansion in economically-disadvantaged areas); *id.* tit. II, 42 U.S.C. §§ 3142, 3171 (1976) (Development Financing Program, including interest subsidies, direct loans and loan guarantees, assists individual businesses and localities seeking to establish, expand or maintain industrial or commercial operations); *id.* tit. III § 301, 42 U.S.C. §§ 3151, 3151a (1976) (EDA provides localities with information, data and advice on the development of specific plans or projects in economic development); *id.* tit. III § 302, 42 U.S.C. §§ 3151-3153 (1976) (grants and technical assistance services are provided to states and localities to assist them in developing comprehensive plans for economic development); *id.* tit. IX, 42 U.S.C. §§ 3241-3245 (1976) (EDA provides grants to assist localities in overcoming problems associated with unemployment, physical deterioration and devaluation of land, buildings and public infrastructure, and economic dislocation); Trade Act of 1974, tit. II, 19 U.S.C. §§ 2101-2487 (1976) (EDA provides direct loans and loan guarantees to firms and localities that have suffered declines in employment and sales caused by increased imports).

26. The United States Department of Labor was established in 1913 "to advance the working conditions and welfare of wage earners in the United States. It provides job-training programs; helps workers to find employment; fosters collective bargaining; protects pension rights; and computes statistical data on employment, prices, and other relevant economic measures." *Resources For Economic Development*, *supra* note 24, at 76. See Comprehensive Employment and Training Act of 1978, tit. II, 29 U.S.C. §§ 801-999 (Supp. III 1979) ("CETA") (Employment and Training Administration administers CETA, whose programs benefit both the public and private sectors by helping to create a trained labor force); Comprehensive Employment and Training Act of 1973, Pub. L. 93-203, § 2, 87 Stat. 839 (current version at 29 U.S.C. §§ 801-999 (Supp. III 1979) (Private Sector Initiative Program supports on-the-job training programs through which employers are reimbursed for training fees that aid in expanding employment opportunities for the economically disadvantaged).

27. The United States Department of Transportation "establishes national transportation policies and seeks to assure safe, efficient, and convenient transportation. The assistance provided by the department is an important factor in the maintenance and expansion of business and industry in urban areas." *Resources For Economic Development*, *supra* note 24, at 80. See Urban Mass Transportation Act of 1964 §§ 3, 5, Pub. L. 88-365, 78 Stat. 303, codified at 49 U.S.C. §§ 1602, 1604 (1976 & Supp. III 1979) (Urban Mass Transportation Administration provides capital improvement grants and loans to state, regional and local governmental bodies and public agencies for acquisition and improvement of facilities and

ment and tax credit incentives by the United States Department of the Treasury;²⁸ low cost insurance against crime in depressed areas by the Federal Emergency Management Agency;²⁹ and Special Impact Program grants by the Community Services Administration to community-controlled, nonprofit organizations for investments in local businesses.³⁰

State and municipal programs are also numerous and diverse. Some of New York's major programs which foster urban economic development include: the New York Job Incentive Program which

equipment); *id.* § 9, 49 U.S.C. § 1607a (Supp. III 1979) (technical studies grants for planning, engineering and designing urban mass transit projects); *id.* § 6, 49 U.S.C. § 1605 (Supp. III 1979) (research and development grants for advancement of existing technology and resolution of transportation problems).

28. The United States Department of the Treasury "offers a number of tax credit programs to encourage investment in businesses, in historic structures, in alternative energy property, and to promote employment possibilities for special groups." *Resources For Economic Development*, *supra* note 24, at 84. See I.R.C. § 48(g) (investment tax credit of 10% for rehabilitation expenditures serves as incentive for rehabilitation of commercial and industrial buildings); *id.* §§ 46(a)(2)(A-E), (a)(10); 48(1)(m) (10% energy investment credit encourages investment in new alternative energy property); Tax Reform Act of 1976 § 2124, Pub. L. 94-455, 90 Stat. 15201 (codified at I.R.C. §§ 167(n), (o), 191) (preservation of historic commercial and income-producing structures is encouraged by allowing owner to either amortize costs of certified rehabilitation over five-year period or take accelerated depreciation); I.R.C. §§ 44B, 51-53 (targeted jobs tax credit to employers who hire certain low-income individuals); *id.* §§ 50A, 50B (work incentive and welfare tax credits ("WIN") to employers who hire recipients of Aid to Families with Dependent Children and/or individuals registered for WIN).

29. The Federal Emergency Management Agency was created in 1979. "It consolidates under one agency's supervision a series of allied federal programs involved with preparedness, mitigation, and response to national emergencies ranging from natural and man-made disasters to nuclear attack. These programs include the United States Fire Administration, the Plans and Preparedness Agency, the Federal Disaster Assistance Administration, and the Federal Insurance Administration." *Resources For Economic Development*, *supra* note 24, at 100. See 12 U.S.C. §§ 1749bbb-10a to 10d (Supp. III 1979) (low-cost federal crime insurance to individuals and business owners for protection against burglary and robbery losses stimulates investment in distressed neighborhoods).

30. The organizations which receive these capital grants are known as Community Development Corporations ("CDC's"). L. LITVAK & B. DANIELS, *INNOVATIONS IN DEVELOPMENT FINANCE* 155 (1979). It has been stated that four factors are essential if CDC's are to promote development in depressed areas that would serve to produce jobs and maximize benefits for local residents.

First, the CDC itself must be truly representative and accountable to its community. Second, the CDC must be able to exercise influence over major business decisions of the ventures in which it invests. Third, it must have the technical expertise to develop ventures, on its own or with other investors. Fourth, the CDC must have the right kind of financing available to it from public or private sources.

Id. at 156.

provides tax incentives to encourage business firms to locate, expand and improve facilities;³¹ the New York Job Development Authority ("JDA") which makes low cost, long-term, second mortgage loans for construction, rehabilitation or expansion of industrial buildings;³² the New York State Urban Development Corporation which offers permanent financing to encourage the in-state construction or expansion of industrial plants;³³ the Industrial Development Agencies which are authorized by the state to issue tax-exempt bonds to finance the acquisition and construction of industrial projects;³⁴ the New York Business Development Corporation, which provides working capital, loans, planning and technical assistance to medium-sized businesses having difficulty securing financing;³⁵ New York City's Office of Development which provides lending, planning, tax and engineering services to expand the private sector economy;³⁶ and the New York City Minority Business

31. See N.Y. TAX LAW § 210(11)(a) (McKinney Supp. 1980); [1979] 20 N.Y.C.R.R. § 5. See also *Resources For Economic Development*, supra note 24, at 118; BANKERS FOR THE EXPANSION OF NEW YORK'S ECONOMY, NEW YORK STATE BANKERS ASSOCIATION, THE "ABC'S" PROGRAMS 3 (1978) [hereinafter cited as *Bankers for Expansion*].

32. See N.Y. PUB. AUTH. LAW § 1803 (McKinney Supp. 1981). All commercial and industrial facilities may receive JDA loans except retail sales establishments, hotels and apartments. *Resources For Economic Development*, supra note 24, at 115. See also *Bankers for Expansion*, supra note 31, at 3-4.

33. See New York State Urban Development Corporation Act of 1968 §§ 2, 5, 16, 29, N.Y. UNCONSOL. LAWS § 6252 (McKinney Supp. 1981). See also *Resources For Economic Development*, supra note 24, at 119-22; *Bankers for Expansion*, supra note 31, at 5.

34. See N.Y. GEN. MUN. LAW §§ 850-88 (McKinney Supp. 1980). See also *Resources For Economic Development*, supra note 24, at 124; *Bankers for Expansion*, supra note 31, at 6-7.

35. See N.Y. BANKING LAW §§ 210-20 (McKinney 1971). See also *Resources For Economic Development*, supra note 24, at 114-15; *Bankers for Expansion*, supra note 31, at 5-6.

36. The Office of Development, together with the Office of Business Services and the Office of Financial Services, comprise the New York City Office of Economic Development ("OED"). OED, through its three offices, manages city programs that stimulate industrial and commercial activities. The Office of Development is itself divided into five units: the Development Unit, which packages and manages major industrial and commercial development projects; the Business Investment Incentive Program, which provides tax exemptions to selected projects; the Project Financing Unit, which is responsible for implementing New York City's participation in the Urban Development Action Grant program administered by the United States Department of Housing and Urban Development, see *Resources For Economic Development*, supra note 24, at 70-71; *Bankers for Expansion*, supra note 31, at 11, the Commercial Revitalization Unit, which administers federal Community Development funds designated for the development of local retail strips, and the Design and Engineering Unit, which provides various services for the Development and Commercial Revitalization

Development Office which provides minority businesses with assistance in marketing, resource development, management, education and training.³⁷

2. Private Sector Programs

The work of enlightened businesses and civic organizations such as banks, insurance companies and volunteer groups, also deserves mention. For example, the First City Division of Lincoln First Bank led a consortium of nine banks and four government agencies in shaping an innovative loan package which induced a large manufacturer of copier machines to establish new operations in Binghamton, New York. This move created close to four thousand new jobs.³⁸ Chemical Bank launched two imaginative projects in the early 1970's. The first, a "streetbanker" program, puts bank representatives literally in the street to serve as a liaison between branches and the community in identifying new urban betterment roles for the bank. Chemical Bank also instituted an ex-offenders program which hires and trains former inmates.³⁹ Other programs include the Business Marketing Corporation, which was formed by business executives in New York City to extol the advantages of establishing operations in the metropolitan area.⁴⁰ The First Wisconsin National Bank, Bank of Commerce and Midland National Bank all joined with Milwaukee officials in a program where the city substitutes subordinated debt for equity while the banks provide term and non-subordinated financing for equipment, working capital or expansion.⁴¹ Additionally, Chase Manhattan Bank instituted a program which provides in-prison job training and guaran-

Units. *Resources For Economic Development*, *supra* note 24, at 143-45.

37. The New York City Minority Business Development Office ("MBDO") programs operate principally through MBDO's four divisions (Procurement, Capital Formation, Education/Training and Advocacy) in order to promote the advancement of minority business through use of resources available from the public and private sectors. NEW YORK CITY MINORITY BUSINESS DEVELOPMENT OFFICE, OFFICE OF ECONOMIC DEVELOPMENT, NEW YORK CITY — MINORITY BUSINESS DEVELOPMENT OFFICE PROGRAMS 1.

38. Telephone interview with Richard R. Millar, Division President and Chief Executive Officer of First City Division, Lincoln First Bank (Feb. 2, 1981).

39. CHEMICAL BANK, BANKING ON NEW YORK 11, 25.

40. The Business Marketing Corporation is funded jointly by New York City and the private sector. *New York City Means Business*, BUSINESS WEEK, Oct. 30, 1978 (Supp.) at 19.

41. AMERICAN BANKERS ASS'N, BANKERS & COMMUNITY INVOLVEMENT 18-19 (1978).

tees bank jobs for some parolees.⁴² Scores of banks and insurance companies throughout the country also make grants to community organizations as part of their philanthropic programs.⁴³ Citicorp, convinced that the decline of older neighborhoods could be reversed by encouraging home buying among first-time buyers, launched Operation Stretch in Brooklyn in 1977. The program provides thirty year mortgages and requires no more than a ten percent down payment.⁴⁴ Based on the success of the program in Brooklyn,⁴⁵ the bank expanded Operation Stretch in early 1980 to cover the entire New York City metropolitan area;⁴⁶ the First National Bank of Chicago established a community development subsidiary which participates in loans and equity investments in residential, commercial and industrial projects;⁴⁷ New York City's commercial and savings banks established the Community Preservation Corporation ("CPC") in 1974 to test the possibility of providing financing for the rehabilitation of occupied housing in older neighborhoods. CPC committed more than forty-three million dollars to mortgage financing for the rehabilitation of 162 buildings in its first four years of operation.⁴⁸

It is important to emphasize that banks, whether in concert with other organizations or on their own, can make valuable contributions to local economies:

[T]he banker is a valuable resource to both the public and private sectors

42. The plan was developed to help lower the recidivism rate among women ex-offenders. Of the 17 graduates of the first class of the Chase program, only one returned to prison. *Id.* at 26-27.

43. These institutional donors include Aetna Life and Casualty Foundation, Inc., Bankers Trust Co., Equitable Life and Assurance Society of the United States, Irving Trust Co. and the New York Life Foundation. These and other organizations have made substantial grants in New York during the last three years to projects in urban affairs, environmental protection, planning and economic development. *Resources For Economic Development*, *supra* note 24, at 186-89.

44. Telephone interview with Susan Weeks, Public Affairs Manager, Citicorp (Feb. 2, 1981).

45. Seventy-five percent of the borrowers bought homes in their own neighborhoods. *Id.*

46. *Id.*

47. Investments by the subsidiary, which is to be called First Chicago Neighborhood Development Corporation, will most likely be made through partnerships between the subsidiary and other for-profit corporations and community not-for-profit corporations, using public program supports where appropriate. FIRST NATIONAL BANK OF CHICAGO, PRESS RELEASE 1 (Mar. 12, 1980) (on file with the *Fordham Urban Law Journal*).

48. COMMUNITY PRESERVATION CORP., ANNUAL REPORT 3 (1979).

because of his knowledge of the local economic environment, ability to evaluate investment alternatives, and experience in allocating capital among development projects. He is very likely to know which businesses are growing, which companies may migrate to the suburbs, and which have problems and need to be rescued.⁴⁹

Given the impressive number of government and private sector programs, it may appear that either no additional approaches are necessary to stem the tide of urban decay, or a moratorium against instituting new programs should be imposed until the impact of existing efforts can be adequately evaluated. These conclusions are refuted, however, by the simple fact that the problems have not dissipated and are in fact becoming progressively worse in some cities. In the absence of a definitive solution from the public and/or private sector, and in view of the rapidity with which structural changes are taking place in the economy, new ideas must be sought constantly. Yesterday's answers, no matter how keen, will not necessarily eliminate tomorrow's difficulties.⁵⁰ In addition, it would be unwise to become complacent about the temporal efficacy of a piecemeal approach toward urban development. An example of how such an approach only produces partial solutions can be found in the recent passage of the Omnibus Banking Bill in New York.⁵¹ Spurred by a need to discourage large commercial banks from moving key operations to other states,⁵² to reverse the movement of mutual savings banks from the state to the federal system

49. THE BANKERS MAGAZINE, Nov. - Dec. 1979, at 74.

50. Felix G. Rohatyn, chairman of New York's Municipal Assistance Corporation, voiced a similar theme:

Predictions based on past performance must be suspect. The certainty of supply-siders about their current theology must be viewed with some skepticism. A recent *Wall Street Journal* editorial hailed the rescue of New York City as a prime example of supply-side theory working its magic. . . . Claims such as the *Journal's*, however, are among the main dangers of President Reagan's program. Where psychology is so important, raising public expectations by making a dangerous, complicated program sound too easy and too certain of success can be self-defeating. At the first sign of faltering, overexpectations will be replaced by premature condemnation.

Testimony by Felix G. Rohatyn, before the Committee on Ways and Means, United States House of Representatives (Mar. 5, 1981), reprinted in *The New York Review of Books*, Apr. 16, 1981, at 16, cols. 3-4.

51. 1980 N.Y. Laws ch. 883.

52. Dr. Anthony M. Solomon, President of the Federal Reserve Bank of New York, warned that New York's role as a domestic and international money center could be jeopardized by banks moving outside the state. *N.Y. Times*, Jan. 30, 1981, at D1, col. 3.

and to restore New York to its position as the dominant financial center in the country, the legislature eliminated usury ceilings on most forms of consumer credit⁵³ and gave state-chartered thrift institutions parity with their federal counterparts.⁵⁴ It cannot be gainsaid that this measure has had positive effects on the banking industry in New York,⁵⁵ benefits which will be enjoyed by consumers for many years to come. Nevertheless, the bill's failure to address some related issues, principally bank taxes,⁵⁶ has left in-

53. See 1980 N.Y. Laws ch. 883, §§ 6-10, 12, 14-17, 19, 20, 29, 30, 47, 48 (personal and home improvement loans); *id.* §§ 11, 18, 33, 50 (checking account overdrafts and cash advances); *id.* § 84 (credit cards); *id.* §§ 72-76, 78-83 (retail installment contracts); *id.* §§ 28, 41, 49 (second mortgages); *id.* § 42 (licensed lenders); *id.* § 59 (state-chartered credit unions).

54. See *id.* §§ 35-37 (one-branch-per-year limitation removed for savings banks); *id.* §§ 55-57 (one-branch-per-year limitation removed for savings and loan associations); *id.* § 31 (authorizes savings banks to make personal loans, issue credit cards and act as financing agency for retail loans); *id.* § 52 (parallel powers granted to savings and loan associations); *id.* §§ 27, 51 (savings banks and savings and loan associations permitted to engage in trust activities when so authorized by Banking Board); *id.* § 32 (savings banks authorized to make corporate loans up to five percent of assets); *id.* § 34 (savings banks allowed to take corporate deposits made in connection with a corporate loan relationship).

55. When the new law went into effect, three major New York banks posted higher, though varying rates. Due to this rate differential, consumers could shop for the "best buy." N.Y. Times, Dec. 2, 1980, at D13, col. 3. A spokesman for the Marine Midland Bank suggested that "customers would shop for the best deals at banks as they do now for soda or cuts of meat." N.Y. Times, Dec. 1980, at D3, cols. 4-5. A New York State Consumer Protection Board spokesman predicted that "growing competition among banks would give consumers a chance to bargain over terms in a kind of credit marketplace." *Id.* at col. 5.

56. The New York State Bankers Association ("NYSBA") has urged the legislature to make two tax reforms in existing law. First, the NYSBA advocates the reduction of the New York State and New York City bank tax rate in order to equal the rate at which the state and city's general business corporations are taxed. Currently, the New York State commercial bank tax rate is 20% higher than that on general business and the New York City tax rate is more than 50% greater. NEW YORK STATE BANKERS ASS'N, 1981 LEGISLATIVE PROGRAM 3 (1981). The NYSBA therefore believes that "[w]hile the enactment of the Omnibus Banking Law will stimulate new growth and confidence in New York State as a world financial center . . . the State's high tax rates on banks stand as an impediment to achieving our full potential." *Id.*

Second, the NYSBA urges the elimination of the taxes paid by commercial banks and other business corporations on interest earned on debt obligation of New York State and its agencies and political subdivisions:

New York financial institutions now hold over \$5.8 billion in New York State state and local obligations. We believe that this commitment to the state could be increased and that the borrowing costs of the state could be reduced if obligations were exempt from taxation as they are in most other states. The reduction in borrowing costs would increase the capacity of state and local government in New York to finance needed infrastructure improvements and economic development projects. The

tact the industry's current problem of competing with other financial intermediaries.⁵⁷

The importance of shaping a satisfactory philosophy on the role of government in urban development should not overshadow the need to also involve business, banks, insurance companies, foundations, community organizations and concerned individuals. Urban problems are so multifarious and encompass so many aspects of everyday life that a united effort by all competent parties is necessary to ensure their eventual resolution.⁵⁸ The need for such a group approach was underscored at a recent meeting of the National Leadership Conference on Urban Lending in New York City.⁵⁹ The meeting emphasized the theme of partnership — between commercial banks and thrift institutions, between all banks

end result will be new jobs and new revenues for the State of New York.

Id. at 7.

New York Governor Hugh Carey has proposed exempting the interest income earned by banks on high risk investments in new and small businesses from the usury provisions of N.Y. PENAL LAW § 190.40 (McKinney Supp. 1980):

We must encourage banks and other financial institutions to take greater risks in the provision of loans to these enterprises. Such risks will necessarily entail higher returns from successful ventures to compensate for losses on unsuccessful ones. At present, the criminal usury law discourages banks from developing innovative new financing techniques — such as risk pooling and royalty repayment loans — that would increase the flow of funds to these enterprises.

H. CAREY, PROGRAM FOR ECONOMIC GROWTH, reprinted in N.Y.L.J., Mar. 26, 1981, at 24, cols. 5-6. See generally Crafton, *An Empirical Test of the Effect of Usury Laws*, 23 J. LAW & ECON. 135, 139-42 (1980) (in periods of high inflation, usury laws have a negative impact on economic development).

57. The 25.8% combined state and city tax rate on New York City banks is by far the highest in the nation. Therefore, "[t]hose New York banks competing in national markets will find themselves at a disadvantage in bottom-line profitability unless they locate facilities out of state to the maximum extent feasible or unless they compensate by charging higher rates to their local consumer and commercial markets." NEW YORK STATE BANKERS ASS'N, 1981 LEGISLATIVE PROGRAM 6 (1981).

58. Cf. Silk, *An Impossible Job for the Fed?*, N.Y. Times, Oct. 3, 1980, at D2, col. 2 ("[w]ithout the support of . . . Congressional actions, the Administration and the private sector, monetary policy cannot simultaneously stop inflation and keep the economy growing steadily"). One study has found that "an attitude of cooperation has replaced the posture of confrontation that characterized citizen-government-business relations in the 1960s and early '70s." REGIONAL PLANNING ASS'N, THE REGION'S AGENDA 1 (Oct. 1980).

59. The conference was co-sponsored by the Midwest Federal Savings and Loan Association and the Chase Manhattan Bank in 1979. It was attended by 100 men and women from the financial services industry. CHASE MANHATTAN BANK, MIDWEST FEDERAL SAVINGS AND LOAN ASS'N, THE NATIONAL LEADERSHIP CONFERENCE ON URBAN LENDING i, 2 (1979).

and government and between all banks and labor unions.⁶⁰ The speakers at the conference also advocated a total approach to urban rehabilitation that went far beyond loans for business development and job training. Included among the activities recommended at the conference were: increasing communication among urban lenders;⁶¹ assuming an advocacy role for services, policies and resources needed by urban lenders and their clients;⁶² developing technical assistance programs for lenders;⁶³ and increasing efforts in corporate social responsibility so that the interrelated problems of the cities are addressed unilaterally.⁶⁴

New York Governor Hugh Carey in his 1981 State of the State address similarly urged a thorough, all-encompassing strategic plan for urban assistance:

One of the most fundamental lessons we learned, or relearned, over the past six years is that this job of fiscal reform and economic development cannot be the sole responsibility of any one part of our society. Government cannot succeed without the support of the business community, and they in turn are powerless without the cooperation of labor.⁶⁵

D. Suggested Solutions

Some new proposals which aggressively address themselves to an

60. This theme was addressed by John B. Davies, Jr., representing co-sponsor Chase Manhattan Bank: "We must work with the public sector to remove the obstacles that have been created — not by intent — and that hinder financial institutions [*sic*] investment in urban revitalization. . . ." *Id.* at 9.

61. Participants encouraged the development of a newsletter as well as a computerized central information source for various assistance programs and other urban lending issues. *Id.* at 44.

62. It was felt that both the National Leadership Conference and lenders in general should influence public policy toward the development of realistic governmental activities. Moreover, the need was expressed for the private sector to continue addressing the needs of neighborhood revitalization unhampered by additional government regulations. *Id.*

63. These technical assistance programs would be directed not only toward the people directly responsible for urban lending but also toward the senior management of the lending institutions. An executive loan program which would operate between private institutions, and between private and government agencies was also suggested. *Id.*

64. Financial institutions could, for example, "ease the process of change for projects that deal with adaptive reuse and displacement through the use of financing techniques such as interest-only grace periods or purchase-money deferment. In addition, they can work towards the inclusion of all neighborhoods with a majority of their housing stock fifty years or older on the National Register of Historic Places. This would give those neighborhoods broader access to tax incentives." *Id.*

65. State of the State Address by Governor Hugh L. Carey (Jan. 7, 1981), N.Y. Times, Jan. 8, 1981, at B6, col. 1.

array of urban problems and which are attracting much attention include establishment of an Urban Development Bank,⁶⁶ the Kemp-Garcia Urban Jobs and Enterprise Zone Act⁶⁷ and the job incentive recommendation of the McGill Commission.⁶⁸ The first proposal would establish an interagency bank with multiple powers to alleviate capital needs through lending and investment programs. The Kemp-Garcia Bill is an effort to restore economic expansion in inner cities through a variety of tax incentives for employment, innovation, investment and production. The McGill Commission recommends, *inter alia*, that government incentives be offered to the poor in order to encourage migration to the job-rich sunbelt. Rapid congressional adoption of either of the first two proposals is not likely in view of the current administration's budget-balancing pressures.⁶⁹ The ideas nevertheless deserve serious consideration.

1. *The Urban Development Bank*

The proposal for an Urban Development Bank was first made in 1978⁷⁰ and has since been an integral part of several suggested bills.⁷¹ Although none of these bills has cleared the legislative hurdles, each contains ideas that have won the support of several constituencies. Included among the activities its many proponents envision for an Urban Development Bank are: loans to finance state and local government facilities; loans for the establishment and expansion of businesses and industries; loans and guarantees to construct housing and community facilities; and equity financing for urban small business projects.

Establishment of an Urban Development Bank has a number of advantages. First, the capital that such a bank could provide would increase the likelihood of success of job-creating activities. Second,

66. See notes 70-76 *infra* and accompanying text.

67. See notes 77-83 *infra* and accompanying text.

68. See notes 83-91 *infra* and accompanying text.

69. See N.Y. Times, Apr. 3, 1981, at A1, col. 6.

70. The proposal was submitted to Congress by former President Carter on March 27, 1978, as part of a "comprehensive national urban policy." President's Message to Congress on the National Urban Policy (Mar. 27, 1978), reprinted in U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, THE PRESIDENT'S NATIONAL URBAN POLICY REPORT: 1978 (1978).

71. See, e.g., S. 914, 96th Cong., 1st Sess. (1979), reprinted in 125 CONG. REC. S11092-11106 (daily ed. Aug. 1, 1979); H.R. 2063, 96th Cong., 1st Sess. (1979), reprinted in 125 CONG. REC. H10732-45 (daily ed. Nov. 14, 1979).

the ability of an Urban Development Bank to concentrate on small firms⁷² has much appeal because the vast majority of existing programs have been aimed at larger concerns which have other financing avenues open to them.⁷³ Third, the technical assistance available through such a bank is essential. Capital without management and marketing training, help in product development and other related skills cannot effectively accomplish the task. Fourth, the creation of an umbrella financing organization with the backing and resources of the United States Departments of Treasury, Commerce, Agriculture and Labor, could be more effective in obtaining the support of the private sector than existing programs. Similar efforts in Europe have successfully effected spatial discrimination objectives⁷⁴ and raise realistic hopes that a development bank approach can work in the United States.⁷⁵

Notwithstanding these positive effects, it must be realized that public funds have alternate uses. A dollar misspent means a dollar

72. Sixty-six percent of the replacement jobs for positions lost in dying urban businesses are created by enterprises employing fewer than 20 people. L. LITVAK & B. DANIELS, *INNOVATIONS IN DEVELOPMENT FINANCE* 25 (1979).

73. Large firms could, for example, sell commercial paper in order to raise needed capital, whereas small companies would not ordinarily have this option. *Cf.* *BUSINESS WEEK*, Apr. 13, 1981, at 86, col. 1.

74. Spatial discrimination involves geographical discrimination, that is, choosing communities to receive special attention for developmental purposes. An urban or regional policy (the latter term being of common usage in Europe) which implements this concept would provide "direct subsidies to private industry to promote spatial discrimination in the location of industrial facilities." *THE COUNCIL FOR INTERNATIONAL URBAN LIAISON, R. NATHAN, LESSONS FROM EUROPEAN EXPERIENCE FOR A U.S. NATIONAL DEVELOPMENT BANK 1* (1979). Western European regional policy

typically involves a mixture of automatic and discretionary financial incentives, along with tax incentives, to firms which locate, expand, or modernize facilities in designated development regions. Most assistance is for manufacturing firms, although assistance is also provided to large service firms when the firms involved have 'a choice of location.' (Banks, insurance companies, and mail order firms are examples of the latter.) The magnitude of the assistance provided tends to vary according to the degrees of designation of the development areas. Britain and France, for example, have three gradations of regional designation, with the maximum package payable in the neediest areas and smaller amounts of assistance available in the lower gradations of development area.

Id. at 3.

75. The study sponsored by the Council for International Urban Liaison concluded that, despite the "unique features" of the United States setting such as smaller target areas and the anticipated heavy reliance on discretionary rather than automatic grants, a development bank could be successfully created and operated in this country. *Id.* at 27.

less for health, foreign aid, defense or other deserving options. Also, the past lack of success in the use of public funds to combat urban decay generates the legitimate fears associated with yet another ineffective public sector program. In addition, some might advocate time for reflection until the many questions regarding the proper approach to economic development have been answered. Needless to say, the debate will continue for some time.⁷⁶

2. *The Kemp-Garcia Bill*

The Kemp-Garcia proposal,⁷⁷ sponsored by Representatives Jack Kemp and Robert Garcia, is based on the premise that jobs for the jobless and the prospects of long-term growth for depressed areas can do more for individuals and their local, state and national governments than welfare payments which stifle and drain public coffers. Representative Kemp stated that "however useful Federal spending may have been for alleviating the symptoms of urban decay, they have failed to create this new economic environment or even to arrest the decay."⁷⁸ The Kemp-Garcia proposal would have local governments designate seriously deteriorated areas as "enterprise zones." At the same time, the federal government would encourage business development in the zones by reducing Social Security and business taxes and the capital gains tax rate on investment, and by allowing generous depreciation terms.⁷⁹

Representatives Kemp and Garcia point out that the inner cities

76. See generally Solomon, *New Urban Economic Initiatives: History, Problems and Potential*, 16 HARV. J. LEGIS. 811 (1979).

77. For a detailed discussion of the Kemp-Garcia bill, see Comment, *The Kemp-Garcia Enterprise Zone Bill: A New, Less Costly Approach to Urban Redevelopment*, 9 FORDHAM URB. L.J. 659 (1981) [hereinafter cited as *Enterprise Zone Bill*].

78. J. KEMP, *THE URBAN JOBS AND ENTERPRISE ZONE ACT: SOME QUESTIONS AND ANSWERS* 1 (unpublished manuscript on file with *Fordham Urban Law Journal*). A similar point was made in the Congressional Quarterly:

[W]hile transfer payments in the form of welfare benefits for the poor and cash grants for city treasuries are considered important for the short-term economic health of cities, private investment is increasingly viewed as the long-term answer to providing permanent jobs and rebuilding the tax bases of aging cities.

CONG. QUARTERLY, Jan. 6, 1979, at 24, cols. 1-2.

79. Any eligible businesses within the zones which take advantage of the tax reductions would be required, under the bill, to hire at least 50% of their workers from within the zones. 126 CONG. REC. H3880 (daily ed. Aug. 19, 1980) (remarks of Rep. Garcia). See generally Pomp, Kanter, Simonson & Vaughan, *Can Tax Policy Be Used to Stimulate Economic Development?*, 29 AM. U. L. REV. 207 (1980).

are in dire need of an entrepreneurial environment that encourages risk-taking and innovation,⁸⁰ and that small businesses, the key source of new jobs for the poor,⁸¹ have been left out of most development programs. Additionally, the cost of the measure would not be excessive because the measure would lower tax obligations from areas currently producing little revenue.⁸²

It is true that a reduction in taxes from neighborhoods generating scant taxable earnings has little downside risk and much potential gain. Nevertheless, questions still remain as to the number of investors willing to chance financial outlays in the inner cities, and how long it will take for small business expansion to have a noticeable impact on these communities.

3. *The McGill Commission*

A third proposal which has initiated much interest and debate emanates from the urban report of the President's Commission for a National Agenda for the Eighties (the "McGill Commission").⁸³ One of the more controversial recommendations in the report is that the government should offer incentives which will encourage the poor to move to where the jobs are, namely, from the northeast and midwest to the sunbelt states.⁸⁴

This proposal has understandably upset public officials who are already troubled by what appears to be the public's resignation about the prospects of their areas, as well as by a movement away

80. A similar concern has been expressed by New York State Governor Hugh L. Carey: "The key to sustained economic progress is the continued development of new business enterprise . . . [which] includes the banks, insurance companies and other financial service institutions that have taken on the challenge of serving an expanding world economy — and in doing so have vastly increased the strength and stability of . . . [New York] State's economy." H. CAREY, PROGRAM FOR ECONOMIC GROWTH, reprinted in N.Y.L.J., Mar. 26, 1981, at 19-20, col. 1.

81. See note 72 *supra*.

82. The bill's sponsors estimate the plan would cost \$1.4 billion in lost federal revenue in 1981, although some of this money could be recouped through increased income tax revenues from people who get new jobs. U.S. NEWS & WORLD REPORT, Nov. 3, 1980, at 52, col. 2. The most significant cost of the bill would be the reduction in social security tax revenues. See *Enterprise Zone Bill*, *supra* note 77, at 692 n.229.

83. REPORT OF THE PRESIDENT'S COMMISSION FOR A NATIONAL AGENDA FOR THE EIGHTIES, A NATIONAL AGENDA FOR THE EIGHTIES (1980) [hereinafter cited as *McGill Commission*]. The Chairman of the McGill Commission is William J. McGill, President Emeritus of Columbia University. *Id.* at 200.

84. *Id.* at 69-70.

from channeling funds through government entities. In the Department of Housing and Urban Development, for example, the McGill Commission Report has been called a "strident and unbalanced celebration of the uncontrolled sprawl that has occurred in nearly every region of the country since World War II."⁸⁵

The McGill Commission contends, however, that "[c]ontrary to conventional wisdom, cities are not permanent"⁸⁶ and the fading of the older urban areas is part of a process of the emergence of post-industrial America.⁸⁷ It adds as its major theme that national policy has for too long been place-oriented rather than people-oriented.⁸⁸

Although the proposal espoused by the McGill Commission warrants study, such a proposal, if enacted, could serve to blunt the significant efforts already underway in the northeast to arrest urban decay. It may also be unrealistic in today's age of two-income

85. N.Y. Times, Jan. 12, 1981, at A17, col. 2.

86. *McGill Commission*, *supra* note 83, at 65.

87. A University of Chicago study conducted in 1976 revealed that people in the Middle Atlantic and East North Central areas are indeed more desirous of living elsewhere than their neighbors in other parts of the country.

<u>Area</u>	<u>Percent indicating desire to live elsewhere</u>
Middle Atlantic	30.8
East North Central	30.2
West North Central	29.2
New England	20.9
East South Central	17.1
West South Central	17.1
South Atlantic	14.0
Mountain	13.0
Pacific	12.8

D. MORGAN, PATTERNS OF POPULATION DISTRIBUTION: A RESIDENTIAL PREFERENCE MODEL AND ITS DYNAMICS 22 (1976). See also MONTHLY LABOR REV., Mar. 1980, at 18.

It has been further noted: "[T]he study panel wisely points out that unless Government can avoid squandering new capital on fruitless urban development projects, it will lack the resources to spend fruitfully on promising ones." N.Y. Times, Dec. 31, 1980, at A14, col. 2. The editorial asserts that the question whether national policy should keep decaying cities alive is one that should be asked.

88. People-oriented national social policies that aim to aid people directly wherever they may live should be accorded priority over place-oriented national urban policies that attempt to aid people indirectly by aiding places directly. These major social policy initiatives and realignments should largely substitute for, rather than add to, existing federal policies.

McGill Commission, *supra* note 83, at 167.

families⁸⁹ to assume that households would be willing to surrender the realities of one job and close family ties in a declining area for the prospects of two jobs and a new life elsewhere. Indeed, the changing financial and social environment makes the unknown seem more threatening than it has been perceived during periods of steady economic growth. Moreover, a move across state lines would at least temporarily drain household budgets notwithstanding government assistance.

Despite these arguments, the idea of a people-oriented philosophy⁹⁰ may be a concept whose time has come. Urban planners cannot ignore the fact that poverty crosses many boundaries and is not a phenomenon unique to a handful of northeastern and midwestern cities.⁹¹ New development programs must therefore recognize that attention must be paid to areas outside the urban northeast and midwest.

IV. Conclusion

Having identified some possible solutions to the problems plaguing the central cities of the northeast and midwest, it would now be beneficial to explore the general policies underlying an effective urban renewal program.

Urban development programs can work. Although some of the efforts by government, businesses and community organizations have failed to achieve their objectives, carefully plotted urban development programs can realize the goals established by their designers. These programs should concentrate on the young, small enterprises which account for a large percentage of jobs for the poor.⁹² They should also ensure that the risks are widely shared among the three sectors. There is no reason for urban development programs to fail in view of the successes the government has enjoyed in other areas, such as providing assistance to farmers, building highway systems and arming the nation in times of war.

89. See note 94 *infra*.

90. See note 88 *supra*.

91. Knowledgeable observers point out that there are still poor people in the sunbelt. America's rural areas still house 41% of the nation's poor, and even one out of six residents in Long Island's affluent Nassau County, which has the third highest per-capita income in the United States, is poor. B. DANIELS & M. KIESCHNICK, DEVELOPMENT FINANCE: A PRIMER FOR POLICYMAKERS, Part I at 6 (1979).

92. See note 72 *supra*.

The availability of capital is a key to economic growth. It is recognized that capital alone cannot overcome mistakes in marketing, poor work performances and wastefulness.⁹³ Money is nevertheless the fuel on which firms operate. Despite the fact that the cost of borrowing funds is low relative to the cost of land and labor, even a further decline in interest rates would be immaterial if the borrower were unable to obtain financing in the first place. The need to make capital available, not just to lower its cost, is therefore imperative.

Players in the urban development game must know how capital markets operate. There are numerous institutions operating in capital markets and a wealth of opportunities for each to consider. Borrowers, lenders and other catalysts in the funding process need to understand why and how these institutions move funds, and the factors which influence their decision-making.

Urban areas in the northeast and midwest may soon start reversing the declining population pattern. There are a host of socioeconomic factors which could precipitate a return to the cities. Chief among them is the rapidly rising number of two-income families. One study reveals that the number of working mothers in the United States has increased more than tenfold since the period preceding World War II.⁹⁴ With both parents working, there is a desire to live closer to one's place of business in order to care for children at home. In addition, the declining birth rate,⁹⁵ the rising costs of housing⁹⁶ and mortgages⁹⁷ and the money being spent on

93. See text accompanying notes 73-74 *supra*.

94. WOMEN'S BUREAU, OFFICE OF THE SECRETARY, UNITED STATES DEPARTMENT OF LABOR, 20 FACTS ON WOMEN WORKERS 1 (1980). More than half of all mothers with children under 18 years of age, or 16.6 million mothers, were in the labor force in 1979. *Id.*

95. In the United States in 1960, there were 23.9 births per 1,000 population. By 1970, this number had declined to 18.3. By 1978, the birth rate was only 15.3 per 1,000. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 26 (1979). In New York City, there was an average of 155,000 births each year between 1960 and 1964. By 1970, the number declined to 139,000 and between 1973 and 1977 the average was only 103,000 per year. NEW YORK CITY PLANNING COMM'N, CAPITAL NEEDS AND PRIORITIES FOR THE CITY OF NEW YORK ii (1979). A declining birth rate minimizes the desire to move to the suburbs for the sake of the children.

96. The median sales price of a house in 1980 was approximately \$64,600 although in December 1980 the median price rose to \$67,900. N.Y. Times, Jan. 31, 1981, at A30, col. 1. The median price of a new one-family home is expected to top \$110,000 by 1985. NEWSWEEK, Mar. 30, 1981, at 36, col. 2.

97. See, e.g., NATIONAL REAL ESTATE INVESTOR, Dec. 1980, at 27; PROFESSIONAL BUILDER/

urban restoration⁹⁸ all should have drawing power for the cities in this decade.

The independent sector has contributed to bettering the quality of urban life and can do more in the future. It is worth noting that the independent, non-business, non-governmental sector has more units, volunteers and resources than the private sector.⁹⁹ It provides an exceedingly effective outlet for the millions of unaffiliated individuals who wish to alleviate existing problems but who lack the resources to do so on their own. Its many activities should therefore be applauded and the people who serve as its instigators should be encouraged to continue recruiting and agitating for the amelioration of society's ills. At the same time, study is warranted to eliminate duplication of effort and maximize the vast potential of this sector.¹⁰⁰

APARTMENT BUSINESS, Dec. 1980, at 39; SAVINGS & LOAN NEWS, Nov. 1980, at 11.

98. Since 1967, the United States government has spent \$76 billion on urban development projects and \$67 billion on jobs programs. U.S. NEWS & WORLD REPORT, Nov. 3, 1980, at 52, cols. 2-3.

99. J. SIMON, CURRENT FUNDING DILEMMAS OF THE INDEPENDENT SECTOR 1, (unpublished manuscript on file with *Fordham Urban Law Journal*). Nonprofit organizations in our society undertake missions that are, in other countries, committed to business enterprises or to the state. Here, we importantly, if not exclusively, rely on the third sector to cure us, to entertain us, to teach us, to study us, to preserve our culture, to defend our rights and the balance of nature, and ultimately to bury us. And we rely on private philanthropy — third sector financing — to support activities that other nations support with public funds. *Id.*

100. The dilemmas faced by those engaged in researching the independent sector fall into five categories. First, the "mission" dilemma involves determining the most efficient allocation of various tasks such as day care, low-income housing and rail transport among the nonprofit, governmental and business sectors. *Id.* at 5-6. Second, the "financing" dilemma asks whether nonprofit organizations can

obtain increases in government funding, in contributions of money and labor, and in sales and investment revenues . . . in a way that is consistent with majoritarian control over the use of governmental funds, principles [*sic*] of distributive justice in taxation, competitive fairness as between non-profit and for-profit firms, and the maintenance of pluralism and innovation within the non-profit sector?

Id. at 7. Third, the "power" dilemma questions the extent to which nonprofit organizations can exercise power over decision-making in the governmental and for-profit sectors. *Id.* at 8-10. Fourth, the "effectiveness" dilemma raises the issue of how nonprofit organizations can improve their effectiveness in the absence of the conventional tests of market and ballot. *Id.* at 10-11. Finally, the "governance" dilemma asks whether nonprofit organizations can improve or be compelled to improve "their 'accountability' to various constituencies without impairing their contribution to the 'pluralism of the social order.'" *Id.* at 11.

It is reassuring that Yale University's Program on Nonprofit Organizations is conducting a broad-scale research program on the role, control and finances of the nonprofit sector. *Id.* at 3-5. The findings should shed additional light on how the many nonprofit organizations

The academic community's role in resolving urban problems should not be forgotten. During the past decade, scores of universities have added new departments of urban planning, urban studies and public policy to their academic structures. These have represented, in almost every case, an inter-disciplinary mix and constitute a substantial potential for urban problem-solving.¹⁰¹ Academicians have made thoughtful contributions to our understanding of the subject of urban policy, and concerned students have been helpful as volunteers. Faculty and undergraduates and the major research laboratories and libraries of the urban and non-urban universities of this country constitute a resource which can be tapped for many additional contributions. If a way could be found to coordinate and focus the research and training capabilities of the academic world on the problems of the urban sector, just as the land grant colleges focused on our agricultural problems a century ago, major solutions could emerge.¹⁰² In fact, major contributions have been made — in organization theory, in public administration, in city planning, in energy and mass transit studies, in health and housing research, and many others.¹⁰³ The list is very long but the list of needs for research and training is longer still.

Patience and an acceptance of some setbacks are required. It is obvious that programs aimed at small firms staffed by five to fifty individuals cannot solve problems overnight. For example, two programs which took years to realize their full potential are the Farm Credit System¹⁰⁴ and the World Bank.¹⁰⁵ Additionally, in or-

can positively involve themselves in their surrounding environments.

101. Recently enacted federal legislation has recognized that universities can facilitate economic growth and development. See Stevenson-Wydler Technology Innovation Act of 1980, Pub. L. No. 96-480, 94 Stat. 2311, 96th Cong., 2d Sess. (1980).

102. See Address by Clark Kerr, *The Urban-Grant University*, Phi Beta Kappa-Gamma Chapter Centennial Lecture (Oct. 18, 1967), reprinted in *The City College Papers* No. 8 (1968); THE CARNEGIE COMMISSION ON HIGHER EDUCATION, *THE CAMPUS AND THE CITY* (1972); *The Urban Grant University Act of 1977, Hearings before the Subcommittee on Postsecondary Education on H.R. 7328*, 95th Cong., 2d Sess. (Jan. 25, 1978).

103. See, e.g., THE NEW YORK CITY RAND INSTITUTE, *FINAL REPORT 1969-1976* 53-67 (1977); THE RAND CORPORATION, *A BIBLIOGRAPHY OF SELECTED RAND PUBLICATIONS: URBAN PROBLEMS* (1980); D. BRENEMAN & S. NELSON, *Education and Training, SETTING NATIONAL PRIORITIES: AGENDA FOR THE 1980's 205-45* (J. Pechman ed.); OFFICE OF POLICY DEVELOPMENT AND RESEARCH, U.S. DEPT OF HOUSING AND URBAN DEVELOPMENT, *COMPENDIUM OF RESEARCH REPORTS* (April 1980).

104. See generally S. BALDWIN, *POVERTY AND POLITICS* (1968).

105. See generally E. MASON, R. ASHER, *THE WORLD BANK SINCE BRETTON WOODS* (1973).

der to succeed, programs will have to take serious risks, and where there are risks there are failures. It would not be beneficial to over-react either to the inability of some borrowers to repay debts, or to the lack of success in teaching new skills to people with little or no formal schooling. Rather, program sponsors should learn from such occurrences and reform their methods accordingly:

If the program backs only winners, it is uncommonly lucky, or it is not taking the risks necessary to ensure that the program is making a real difference. This certainty of many failures and uncertainty about which firms will fail is the basic reason why many small firms have capital problems; it is also a principle that must guide public efforts to solve these capital market problems.¹⁰⁶

Sooner is better than later. Let us not wait for the last shot to be fired by the agents of urban deterioration. Problems exist and should be addressed now. There are numerous forces at our disposal for effective campaigns on behalf of the cities' poor as well as for investigations of how the public and private sectors can be more effective. Let us heed the words of President Reagan in his inaugural address:

We must act today in order to preserve tomorrow. And let there be no misunderstanding — we're going to begin to act beginning today. The economic ills we suffer have come upon us over several decades. They will not go away in days, weeks or months, but they will go away. They will go away because

106. Kieschnick, *Policies to Support New Businesses: Implications for Urban Development*, COMMENTARY, July 1980, at 21 (new measures are needed to encourage outside investors to provide equity capital to new ventures). After all, "[t]he public investor who makes risk-free investments will make no difference in economic development." *Id.* at 23. Kieschnick believes that a good business development program is one which would generate a large number of small businesses, each employing from 10 to 20 workers. *Id.* at 24.

One of the problems development efforts encounter is the shorter life expectancies of new firms as compared with those of established operations. New firms, however, account for more new jobs. A recent study by the Massachusetts Institute of Technology Development Foundation compared mature companies with innovative and new companies and concluded that from 1969 to 1974 the average annual job increases were as follows:

<i>mature companies</i>	+ 0.6%
<i>innovative companies</i>	+ 4.3%
<i>new, high technology companies</i>	+ 40.7%

U.S. SMALL BUSINESS ADMINISTRATION, REPORT OF THE SBA TASK FORCE ON VENTURE AND EQUITY CAPITAL FOR SMALL BUSINESSES 2 (1977).

we as Americans have the capacity now, as we have had in the past, to do whatever needs to be done to preserve this last and greatest bastion of freedom.¹⁰⁷

Those were encouraging words because they set the tone for the proper environment in which to attack the problems of the cities as part of a public-private section alliance for growth. Recognizing that we can arrest urban decay is a move in the right direction. That, and the awareness that there are powerful forces willing and anxious to unite in activities that must be undertaken, justify expectations of success.

107. Inaugural Address by President Ronald Reagan (Jan. 20, 1981), N.Y. Times, Jan. 21, 1981, at B1, col. 1.

