

One World Trade Center, Suite 8901  
New York, New York 10048  
Telephone: (212) 775-0010

**MUNICIPAL  
ASSISTANCE  
CORPORATION  
FOR THE CITY  
OF NEW YORK**

11 February 1986

Alyse Gray, Esq.  
Assistant Counsel to the Governor  
Executive Chamber  
Albany, New York 12224

Re: Proposed "Opportunity Zone" Legislation

Dear Ms. Gray:

You have requested our views as to the proposed "opportunity zone" legislation constituting a portion of the Governor's 1986 legislative program, a component of which is intended to affect the Special State sales tax imposed within New York City (Section 1107 of the Tax Law, hereinafter referred to as the "Section 1107 Tax").

As you know, we appreciate the opportunity to review and comment upon any proposed legislation affecting, among other things, the Section 1107 Tax. This review is essential because this tax constitutes one of three revenue streams of the Corporation used to pay principal of and interest on the Corporation's obligations and the Corporation's operating expenses.

Each of our general bond resolutions provides that certain changes in our revenue streams would constitute an event of default, one consequence of which is acceleration of the Corporation's debt. Because of this, we are especially interested in any proposed legislation impacting either the base or the rate of the Section 1107 Tax. The proposed "opportunity zone" legislation would, if enacted, impact the base upon which the Section 1107 Tax is imposed by providing a refund or credit to the extent of fifty percent of the sales tax paid for building materials which are incorporated into the structure of industrial or commercial real property located within an "opportunity zone" as would be established by the proposed legislation.

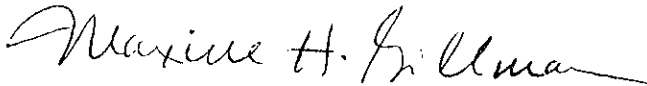
11 February 1986  
Alyse Gray, Esq.  
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After review of the relevant sections of the proposed bill and related materials and consultation with our bond counsel and general counsel, we have concluded that the proposed "opportunity zone" legislation would likely not create difficulties under the Corporation's general bond resolutions, and therefore have no objection to its enactment. We base this conclusion on a letter dated February 6, 1986 (copy enclosed) from John J. Hudder, Assistant Deputy Commissioner For Tax Analysis, estimating that any reduction in current sales tax revenue as a result of enactment of the proposed "opportunity zone" legislation would be negligible. In a subsequent telephone conversation, Mr. Hudder quantified this estimated revenue loss at substantially less than \$500,000 annually.

Any changes in either the language of the proposed legislation as it relates to the Section 1107 Tax or the estimated revenue loss would, of course, necessitate our undertaking a fresh review and analysis, as would any subsequent amendment of the legislation if enacted. In particular, we would be especially concerned about any change or amendment of the proposed definition of "opportunity zone," which could have the effect of increasing the financial impact and thereby further eroding the base of the Section 1107 Tax.

Our analysis of the proposed "opportunity zone" legislation has been limited to its potential effect on the Corporation's revenues and we express no opinion on the merits of the proposal. Thank you again for giving us the opportunity to comment upon this proposed legislation.

Sincerely,



Maxine H. Gillman  
Counsel

MHG:bball



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
ALBANY, NY 12227

JOHN J. HUDDER  
ASSISTANT DEPUTY COMMISSIONER FOR TAX ANALYSIS

February 6, 1986

Ms. Maxine Gillman  
Secretary and Counsel  
One World Trade Center  
Suite 8901  
New York, New York 10048

Dear Ms. Gillman:

The Office of Tax Policy Analysis has examined the potential effect of the sales tax exemption provision of the draft Opportunity Zone legislation on New York City. It is our opinion that any resultant reduction on current sales tax revenue would be negligible.

The potential impacts are minimized because the proposed legislation limits the designation of zones to severely economically depressed areas. In addition, the legislation creates a certification process to ensure that the intent of the law which is new business development not the relocation of ongoing businesses is carried out.

The requirements that must be met before an area can be designated as an opportunity zone are stringent:

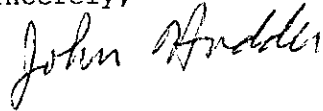
- o Fifty percent of the residents of the area must have income levels below the poverty level.
- o At least twenty-five percent of the area must be available for industrial or commercial development.
- o The area within the proposed opportunity zone cannot exceed 100 acres.
- o Only one opportunity zone designed within the first 18 months can be located within the same county.

Contiguous areas can be designated as part of the opportunity zone if it meets at least one of the following criteria:

- o Thirty-three percent or more of the households receive public assistance.
- o Sixty percent or more of the unemployed persons resident in the area were unemployed for at least 15 weeks.

The sales tax provision exempts only half the receipts from purchases of materials used to construct, expand or rehabilitate real property in an opportunity zone. Only commercial or industrial property, not including property used by one or more retailers, qualifies. Also, the material must be actually incorporated into the real property to qualify. Because of these restrictions and those mentioned above, the sales tax exemption (which actually involves applying for a refund) will apply primarily to sales that would not have taken place without the zone. Furthermore, because only half the sales are exempt, in some circumstances, the stimulation of construction in a zone could lead to a sales tax revenue increase.

Sincerely,

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John J. Hudder  
Assistant Deputy Commissioner  
Tax Policy Analysis

## GOVERNOR'S PROGRAM BILL

1986

M E M O R A N D U M

RE: AN ACT to authorize the creation of opportunity zones in various cities, counties, towns and villages within the State and to amend the general municipal law, the New York state urban development corporation act, the tax law, the labor law, the public authorities law, the real property tax law and the executive law, in relation thereto

Purpose:

The purpose of this legislation is to establish the legal structure for implementing opportunity zones in New York State. Municipalities and state agencies and authorities are empowered to take the necessary steps in order to create these special economic development zones. This legislation is intended to stimulate the creation of new jobs particularly for disadvantaged workers, the underemployed and the long-term unemployed who reside in distressed regions.

Summary of Provisions:

Section 1 adds a new Article 18-B to the general municipal law to create the New York state opportunity zones act. This section includes a statement of legislative findings and purpose, provides definitions of certain terms, sets forth criteria for the designation, redesignation and termination of an opportunity zone, provides for the administration of opportunity zones and sets forth certain special benefits for individuals and businesses that participate in opportunity zones.

Section 2 amends Section 886 of the Executive Law to permit regulatory agencies and the office of business permits and regulatory assistance to establish an expedited business permit assistance program.

Section 3 amends Section 21 of the Labor Law to permit the creation and coordination of job training programs in opportunity zones.

Section 4 amends Section 1828 of the Public Authorities Law to direct the job development authority to provide an expedited

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financial assistance process for business concerns located or to be located within an opportunity zones.

Section 5 amends the Urban Development Corporation Act and requires the Urban Development Corporation to establish a loan fund, using high risk targeted investment funds, to make loans to business concerns located or to be located within an opportunity zones.

Section 6 adds a new section 485(e) to the real property tax law which provides for an exemption from real property taxes for a period of seven years.

Section 7 amends Section 186-a of the Tax Law by adding a new subdivision 8 which provides for a tax credit to utilities which sell low cost energy to businesses located in opportunity zones.

Section 8 adds new subdivisions 12-B and 12-C to section 210 of the tax law to provide an investment tax credit and an employment incentive credit against corporate franchise taxes owed by new York corporations for investments made in buildings and other tangible property located in opportunity zones.

Section 9 reletters existing subdivision nineteen and adds a new subdivision nineteen to section 210 of the tax law, to provide a credit for wages paid to employees of an opportunity zone who are residents of opportunity zones, who receive public assistance benefits or who qualify for benefits under the Job Training Partnership act, P.L. 97-300.

Section 12 reletters existing subsection (j) of section 606 of the tax law and adds a new subsection (j) to provide to individuals a tax credit similar to that provided by section 8 of the bill with respect to business corporations, for investments in opportunity zone property (but not including an employment incentive credit). Section 13 makes certain technical changes to the tax law with respect to such credits.

Section 14 amends Section 606 of the Tax Law by adding a new subsection (k) which provides to individuals tax credits for employing the Designated Employees, similar to those provided in section 9 of the bill to business corporations. Sections 10 and 11 make certain technical changes to the tax law with respect to such personal income tax credits.

Section 15 provides for the personal income tax subtraction created in section 16 of the bill.

Section 16 adds a new subsection (t) to section 612 (c) of the tax law which provides for an exclusion of income subject to state personal income tax of up to 100% of long-term capital gains, insofar as included in federal adjusted gross income, earned by a person on the sale of a security issued by a business

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located in an opportunity zone. Sections 17 amends 612 (p) to extend the new business investment deferral provision to include opportunity zone investments.

Sections 18, 19, 20 and 21 make technical modifications relating to the personal income tax changes made by the bill.

Section 22 amends section 1119 of the tax law to provide a purchaser of building materials for use in constructing or rehabilitating structures in an opportunity zone a refund or credit of sales taxes paid on such building materials.

Section 23 amends Section 1456 of the Tax Law by adding new subsections (e) and (f) to Section 1456. Subsection (e) provides a bank with a tax credit on interest income earned on loans made to businesses located in opportunity zones. Subsection (f) provides banks with the credit given to businesses and individuals for wages paid to certain employees as provided in section 8 of the bill. Sections 24 and 25 make technical corrections relating to these new credits.

Section 26 amends Section 1511 of the Tax Law by adding two new subdivisions (g) and (h) thereto. Subdivision (g) provides insurance companies with the credit for providing jobs to certain employees as in section 8 of the bill. Subdivision (h) provides insurance companies with a tax credit for premiums earned on insurance policies written to insure businesses located in opportunity zones.

#### Existing Law:

There is no existing law in New York State on the subject of opportunity zones. This bill, however, amends various sections of New York Law, including the Municipal Law, the Tax Law, the Public Authorities Law, to facilitate the establishment of opportunity zones.

#### Statement in Support:

New York's most distressed communities do not share in the State's improving economy. While some regions enjoy increased job opportunities, rising wages and low unemployment rates, others continue to be burdened with high rates of poverty, little or no growth in job opportunities, unemployment rates at least twice as high as the Statewide average, and little hope for the future. For decades, these areas have posed intractable problems for State and local economic policymakers. At the same time, these areas have several development advantages which could support new business development and job growth. Many distressed communities include substantial public transportation, highway and road service, skilled labor, and vacant or public lands suitable for business development.

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Without special financial and technical assistance from the State and a corresponding commitment from local governments, there is no reason to believe that these communities will be able to provide adequate employment or business opportunities in the near or distant future. If economic stagnation is to end, the State must design and implement a coordinated program of financial and technical assistance targetted to those communities in the greatest distress, focussed on populations in the greatest need, and implemented in concert with public and private local institutions.

Over the past 20 years, parts of the State have shown a remarkable capacity for economic adaptation and growth. In parts of Manhattan, on Long Island, in the Hudson Valley, and in Rochester, Syracuse and Binghamton, local resources have been exploited successfully to create diverse and resilient economies. Other regions have been unable to regenerate themselves on this scale or at this pace.

Five regions of the State appear to suffer the greatest economic distress: Buffalo, the boroughs of Brooklyn, the Bronx and Queens of New York City, Utica-Rome and Elmira are afflicted by long-term decline and stagnation; North Country communities have relied on low wage service employment and temporary and seasonal work. Each of these regions has a disproportionate share of the State's long-term unemployed and poor. And, within these regions, poverty and joblessness are concentrated in distinct census tracts and among minority populations. To have any significant impact on the economic lives of these localities, State development assistance must be focussed on the affected populations, it must be enhanced to promote entrepreneurial success, and it must be offered in partnership with the localities themselves.

Economic growth on Long Island, in Poughkeepsie or in parts of Manhattan will not "spill over" into the State's distressed regions. Job growth in our strongest regions will not be so great as to create labor shortages and attract significant numbers of distressed area residents to move to suburban employment opportunities. There will not be enough new jobs created for this to happen. New jobs for the unemployed and poor in our distressed areas will have to be created in those areas, and the State's economic development apparatus must be redesigned and targetted to serve the specific needs of distressed areas and disadvantaged populations.

#### Regional Joblessness and Poverty

Although New York City still provides more jobs than 42 of the nation's 50 states, since 1960 more than 1.5 million people have moved out of the City, and more than one half its manufacturing jobs have disappeared. In 1980, about 1.3 million people living in the City were defined as poor. One in every

- 5 -

three Blacks and nearly one half the City's Hispanic population are counted as poor.

Job losses and poverty have been concentrated most heavily in Brooklyn and the Bronx. Between 1970 and 1980, the Bronx lost just under a quarter of all its jobs; Brooklyn lost 15 percent. A full 25 percent of all families living in the Bronx have incomes below poverty, while 21 percent of Brooklyn families are poor, as are 19 percent of those who live in Manhattan. In New York City, the 1980 census revealed there were 120 census tracts in which at least half the residents of those tracts had incomes below the poverty level.

In Western New York, the distress suffered by the Buffalo area stands out for its magnitude and pervasiveness. Since 1980, the area has lost more than 40,000 jobs. More than 75 percent of the steel industry's jobs are gone, and virtually every industry offers fewer jobs than it did in 1970. The area's dependence on government transfer payments (Social Security, unemployment insurance, etc.) as a part of personal income has grown by 75 percent since 1970.

The Utica-Rome area has lost 35 percent of its manufacturing jobs in the last 13 years, and there has been no net increase in total employment since then. Total personal income for the area was the second lowest in the State. Its dependence on transfer payments was even higher than that of Western New York.

The Elmira regional economy never recovered from the 1970 and 1980 recessions. Nearly half its manufacturing jobs have evaporated. Total employment is down about 10 percent just since 1979, and almost all these job losses were in manufacturing.

Average personal income for the North Country is only two-thirds that of the State average. The jobless rate for the entire region has not fallen below 10 percent since 1975, and about 15 percent of all North Country residents had incomes below the poverty level in the last census.

### Minority Joblessness

In 1980, there were 11 counties containing census tracts with unemployment rates twice as high as the Statewide average. Two hundred and sixty-eight of those census tracts were in Kings, Bronx, New York and Queens Counties; another 126 tracts with jobless rates twice the State average were concentrated in Erie, Monroe, Oneida, Oswego, Niagara, Onondaga and Warren Counties.

Minority groups, particularly Blacks and Hispanics, continue to offer the highest rates of unemployment. For example:

- 6 -

o Average annual unemployment for Blacks was 14 percent in 1982, compared with 10 percent for all groups and 8 percent for Whites.

o Among Minority teenagers, unemployment is pervasive: 48 percent of Black teenagers are unemployed, compared with 27 percent for Whites.

o Among Blacks the labor participation rate for men was significantly lower than for Whites (65 percent to 71 percent). Comparable data for the Hispanic population is not available.

The New York Opportunity Zones program would attract industrial development in New York State to the zone areas chosen in our distressed areas. The unique combination of incentives by both city and state governments would create some of the most economically attractive industrial sites in the State.

The sites will be particularly attractive for the location of new plants by in state corporations or out-of-state corporations which are planning labor intensive manufacturing operations. As the program is designed specifically for their needs, they will quickly see the substantial economic advantages of locating in one of New York's Opportunity Zones.

Since these companies will primarily be hiring skilled and semi-skilled labor, their hiring will reduce poverty and high unemployment in the State's distressed areas. Over a ten year period, employers in each opportunity zone will hire thousands of people, including many who are unemployed or on public assistance. The attendant economic activity will also improve the overall attractiveness of the community for businesses, residencies, and additional economic growth.

#### Budget Implication:

The bill will have an impact upon the State budget in two ways: 1) reduction in certain tax revenues, 2) and an increase in other tax revenues. In one study done on the fiscal impact of six opportunity zones, it was calculated that within five years from inception the program will generate 5,100 new jobs, \$120 million in new investment, and \$22 million in revenues to the state. Increases in State tax revenues and reductions in public assistance costs would increase steadily, from \$850,000 in year 1 to \$7.2 million in year 5. The 5 year total cost to the State would be \$24 million, increasing from \$1.75 million in year 1 to \$6 million in year 5. In the early years of the program, costs outweigh benefits by approximately \$1 million per year and the benefits-to-cost ratio varies from 0.48 in year 1 to 0.97 in year 4. By the fifth year, benefits exceed costs with a ratio of 1.20.

The specific extent of the budget impact is difficult to ascertain without knowing how many opportunity zones will be

- 7 -

created, where they will be created and the amount of tax revenue generated by those areas before they are designated as opportunity zones. It is our view, however, that this legislation will be a net revenue producer if viewed beyond the short term. Areas which would qualify as opportunity zones do not now produce any significant tax revenues. Therefore, no significant tax revenues will be lost by designating such areas as opportunity zones. Once an area has been revitalized through opportunity zone incentives, any revenues lost in the short term will be recovered. The intangible benefits of area revitalization and reduced social costs associated with poverty are not included in the above estimates.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
ALBANY, NY 12227

JOHN J. HUDDER  
ASSISTANT DEPUTY COMMISSIONER FOR TAX ANALYSIS

February 6, 1986

Ms. Maxine Gillman  
Secretary and Counsel  
One World Trade Center  
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The Office of Tax Policy Analysis has examined the potential effect of the sales tax exemption provision of the draft Opportunity Zone legislation on New York City. It is our opinion that any resultant reduction on current sales tax revenue would be negligible.

The potential impacts are minimized because the proposed legislation limits the designation of zones to severely economically depressed areas. In addition, the legislation creates a certification process to ensure that the intent of the law which is new business development not the relocation of ongoing businesses is carried out.

The requirements that must be met before an area can be designated as an opportunity zone are stringent:

- o Fifty percent of the residents of the area must have income levels below the poverty level.
- o At least twenty-five percent of the area must be available for industrial or commercial development.
- o The area within the proposed opportunity zone cannot exceed 100 acres.
- o Only one opportunity zone designed within the first 18 months can be located within the same county.

Contiguous areas can be designated as part of the opportunity zone if it meets at least one of the following criteria:

- o Thirty-three percent or more of the households receive public assistance.
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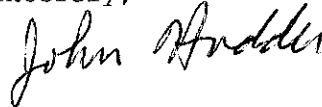
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John J. Hudder  
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### Regional Joblessness and Poverty

Although New York City still provides more jobs than 42 of the nation's 50 states, since 1960 more than 1.5 million people have moved out of the City, and more than one half its manufacturing jobs have disappeared. In 1980, about 1.3 million people living in the City were defined as poor. One in every

three Blacks and nearly one half the City's Hispanic population are counted as poor.

Job losses and poverty have been concentrated most heavily in Brooklyn and the Bronx. Between 1970 and 1980, the Bronx lost just under a quarter of all its jobs; Brooklyn lost 15 percent. A full 25 percent of all families living in the Bronx have incomes below poverty, while 21 percent of Brooklyn families are poor, as are 19 percent of those who live in Manhattan. In New York City, the 1980 census revealed there were 120 census tracts in which at least half the residents of those tracts had incomes below the poverty level.

In Western New York, the distress suffered by the Buffalo area stands out for its magnitude and pervasiveness. Since 1980, the area has lost more than 40,000 jobs. More than 75 percent of the steel industry's jobs are gone, and virtually every industry offers fewer jobs than it did in 1970. The area's dependence on government transfer payments (Social Security, unemployment insurance, etc.) as a part of personal income has grown by 75 percent since 1970.

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o Among Blacks the labor participation rate for men was significantly lower than for Whites (65 percent to 71 percent). Comparable data for the Hispanic population is not available.

The New York Opportunity Zones program would attract industrial development in New York State to the zone areas chosen in our distressed areas. The unique combination of incentives by both city and state governments would create some of the most economically attractive industrial sites in the State.

The sites will be particularly attractive for the location of new plants by in state corporations or out-of-state corporations which are planning labor intensive manufacturing operations. As the program is designed specifically for their needs, they will quickly see the substantial economic advantages of locating in one of New York's Opportunity Zones.

Since these companies will primarily be hiring skilled and semi-skilled labor, their hiring will reduce poverty and high unemployment in the State's distressed areas. Over a ten year period, employers in each opportunity zone will hire thousands of people, including many who are unemployed or on public assistance. The attendant economic activity will also improve the overall attractiveness of the community for businesses, residencies, and additional economic growth.

#### Budget Implication:

The bill will have an impact upon the State budget in two ways: 1) reduction in certain tax revenues, 2) and an increase in other tax revenues. In one study done on the fiscal impact of six opportunity zones, it was calculated that within five years from inception the program will generate 5,100 new jobs, \$120 million in new investment, and \$22 million in revenues to the state. Increases in State tax revenues and reductions in public assistance costs would increase steadily, from \$850,000 in year 1 to \$7.2 million in year 5. The 5 year total cost to the State would be \$24 million, increasing from \$1.75 million in year 1 to \$6 million in year 5. In the early years of the program, costs outweigh benefits by approximately \$1 million per year and the benefits-to-cost ratio varies from 0.48 in year 1 to 0.97 in year 4. By the fifth year, benefits exceed costs with a ratio of 1.20.

The specific extent of the budget impact is difficult to ascertain without knowing how many opportunity zones will be

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o Average annual unemployment for Blacks was 14 percent in 1982, compared with 10 percent for all groups and 8 percent for Whites.

o Among Minority teenagers, unemployment is pervasive: 48 percent of Black teenagers are unemployed, compared with 27 percent for Whites.

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created, where they will be created and the amount of tax revenue generated by those areas before they are designated as opportunity zones. It is our view, however, that this legislation will be a net revenue producer if viewed beyond the short term. Areas which would qualify as opportunity zones do not now produce any significant tax revenues. Therefore, no significant tax revenues will be lost by designating such areas as opportunity zones. Once an area has been revitalized through opportunity zone incentives, any revenues lost in the short term will be recovered. The intangible benefits of area revitalization and reduced social costs associated with poverty are not included in the above estimates.