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STATE AND LOCAL TAX INCENTIVES FOR URBAN GROWTH: A CONCEPT WHOSE TIME NEVER WAS?

Joseph H. Murphy*

I. Introduction

There was a time when tax abatement or exemption was regarded as a panacea for social problems of all kinds. The first personal and dependent exemptions from the federal income tax were an outgrowth of this view. The charitable contributions and medical expense deductions represented further evolutions of this philosophy. The more complex life became, the more numerous became the tax vehicles for dealing with its problems.

The New York State Legislature has frequently chosen tax relief as a tool for stimulating private sector urban development. Tax adjustments are less visible politically and seemingly less costly than direct appropriations to meet social needs. The question, however, is whether tax incentives to private business, even in combination with direct aid programs, represent an adequate response to the extensive problems of maintaining and improving the viability of the state's urban centers. Certainly, private participation is needed in this area of limited public resources. But the enactment of tax incentives affords no guarantee that a significant increase in private investment in cities will take place. This becomes particularly evident, for example, when tax incentives for private housing construction are merely authorized but not granted outright by the legislature.¹ The recent legislative trend away from a focus on urban redevelopment towards creating incentives for statewide economic sti-

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1. See, e.g., N.Y. PRIV. HOUS. FIN. LAW § 33(1)(a) (McKinney 1976). "Upon the consent of the local legislative body of any municipality in which a project is or is to be located, the real property in a project shall be exempt from local and municipal taxes . . ." *Id.* § 33(1)(a) (emphasis added).

multi creates additional uncertainty.

Two major types of tax incentives have been used to encourage urban development in New York State: the exemption and the tax credit. An exemption represents a legislative determination that the taxpayer who creates certain advantage for the public should be recompensed by relief from specific taxation. In New York, an exemption to foster urban development may take one of two forms: an authorization or a grant. The legislature will either give local government units the option to exempt certain taxpayers from specific taxation, or it will grant such exemptions outright. The tax credit, on the other hand, usually results in a pro rata credit against specific taxes which are due. For example, tax credits are given to firms engaged in development and construction in proportion to the increase in total property values.² Exemptions are generally granted for longer time periods than tax credits; an exemption, for instance, will often be granted for the duration of an outstanding mortgage,³ while a credit may be given only for the immediate growth period.⁴

Although New York State has no single unified tax benefit program to foster urban development, a series of loosely connected statutes provide the foundation for its efforts, which are concentrated in two areas: job and related industrial development, and promotion of private investment in housing.

This Article will discuss the principal tax benefit programs available to private businesses which invest in urban industrial and commercial development, and in housing construction.⁵ The Article will first consider tax incentives created specifically to encourage job development and industrial expansion. Particular attention will be paid to the Job Incentive Program⁶ and investment tax credit

2. See, e.g., N.Y. TAX LAW § 210(11)(b) (McKinney Supp. 1977).

3. See, e.g., N.Y. PRIV. HOUS. FIN. LAW § 33(1)(a) (McKinney 1976).

4. See, e.g., N.Y. TAX LAW § 210(12)(a) [Eff. Jan. 1, 1978] -(e) (McKinney Supp. 1977).

5. The scope of this Article is limited to the particular incentives to businesses for urban industrial and housing development. Consideration of specialized tax programs, which are also available to businesses located in urban areas, is not included. For example, there are certain tax exemptions for capital improvements available to firms engaged in steel manufacturing, and located in cities with populations of less than 50,000. N.Y. REAL PROP. TAX LAW § 485-a (McKinney 1976 & Supp. 1977). The Article will also not address the tax incentive programs available if the particular business constructs air or water pollution, or research and development facilities (see, e.g., N.Y. TAX LAW § 210(12)(f) (McKinney Supp. 1977)) because the author considers such optional programs secondary to the comprehensive statutory provisions for urban development.

6. N.Y. COM. LAW art. 4-A (McKinney Supp. 1977).

schemes.⁷ The focus will then turn to a discussion of the tax incentives for privately financed construction of low and middle income housing. In this section an emphasis will be placed on the statutory provisions of the Public Housing Finance Law⁸ which create tax incentives for such investment.

II. Tax Incentives for Job Development

Two bodies of New York State legislation provide tax incentives for industrial development of urban areas. The first, the Job Incentive Program,⁹ encourages the creation and maintenance of job opportunities in certain statutorily prescribed areas. The second, which will be referred to as the Industrial Incentive Program, is directed at rehabilitating and maintaining existing industrial and commercial sites. The more comprehensive of these two schemes is the Job Incentive Program. It provides pro rata tax credits against franchise¹⁰ and unincorporated business taxes¹¹ and authorizes exemptions from local real property taxation¹² for businesses which meet its eligibility requirements. The Industrial Incentive Program provides for investment credits against income taxes¹³ and authorizes exemptions from real property taxation,¹⁴ in return for the construction and rehabilitation of qualified industrial and commercial structures.

A. The Job Incentive Program

The Urban Job Incentive Program,¹⁵ Article 4-A of the New York State Commerce Law was designed originally to stimulate job creation, job maintenance, and training opportunities in urban "core" areas.¹⁶ These were areas characterized by high unemployment and shrinking employment opportunity.

7. See, e.g., N.Y. TAX LAW § 210(12) (McKinney Supp. 1977).

8. N.Y. PRIV. HOUS. FIN. LAW arts. 1-16 (McKinney 1976 & Supp. 1977).

9. N.Y. COM. LAW art. 4-A (McKinney Supp. 1977).

10. N.Y. TAX LAW §§ 210(11), 1456 (McKinney 1976 & Supp. 1977).

11. *Id.* § 701(c) (McKinney 1976).

12. N.Y. REAL PROP. TAX LAW § 485 (McKinney 1976 & Supp. 1977).

13. N.Y. TAX LAW § 210(12) (McKinney Supp. 1977).

14. N.Y. REAL PROP. TAX LAW tit. 2, § 489, tit. 2-C, §§ 489mm-489uu (McKinney 1976 & Supp. 1977).

15. N.Y. COM. LAW §§ 115-120 (McKinney Supp. 1977).

16. See Legislative Memorandum, 1968 N.Y. Laws 2333; Memorandum from the Governor, June 22, 1968, *id.* at 2395.

The statute set out several threshold demographic requirements. In order to qualify as an "eligible business facility"¹⁷ the business had to be located in an urban area with a population of 125,000 or more, where the median family income of the particular census tract fell within the lowest quartile of all cities in the state with the same population.¹⁸ In addition, only businesses involved in manufacturing or wholesaling could qualify and these businesses had to serve an area beyond that in which they were located.¹⁹ Finally, the business had to create or retain a minimum of five jobs and operate one of three kinds of approved training programs.²⁰

Once the Urban Job Incentive Board²¹ determined that these requirements were met, the business would be certified as an "eligible business facility" and certificates for the tax credits and exemptions would be issued. Such certificates remained valid for a period of ten years, and contained provisions for limited renewal.²² Tax credits against state corporation and unincorporated business taxes became immediately available upon the issuance of the appropriate certificates, but real property tax exemptions have continued to be avail-

17. See N.Y. COM. LAW § 115(d) (McKinney Supp. 1977).

18. *Id.* § 115(c)(i) (McKinney Supp. 1977).

19. Section 118(b)(1) of the New York Commerce Law requires that an eligible business facility "serve an area larger than the tract within the eligible areas in which it is located and which does not primarily serve such tract." *Id.* § 118(b)(1) (McKinney Supp. 1977). The limitations of eligibility for businesses involved in manufacturing or wholesaling were specifically added to eliminate either small, area-oriented businesses involved in providing residential or transient living accommodations. The subsequent amendments to this act retain the manufacturing-wholesaling distinction, providing insurance that tax incentives be given for specifically industrial development. *Id.*

20. *Id.* §§ 118(c)-(d) (McKinney Supp. 1977). The three kinds of training programs which the statute specifies are: (1) New York State manpower training act programs, (2) New York State registered apprentice training programs, and (3) apprentice training programs which are acceptable subject to state approval or which qualify as federally approved on-the-job training programs. *Id.* § 118(d).

21. The Job Incentive Board, as presently constituted, includes the Commissioners of Commerce, Industry, Taxation and Finance, Agriculture and Markets, Housing and Community Renewal, the Secretary of State and the Chairman of the State Board of Equalization and Assessment. *Id.* § 116(a) (McKinney Supp. 1977). The Board has the authority to certify businesses as eligible facilities, and to issue the certificates of credit and exemption.

22. *Id.* § 120(c)(i). A 1977 amendment effective January 1, 1978, provides for an extension of the certificate for credits against specific taxes, upon the condition that the qualified facility not have any tax due (beyond the statutory minimum) for any year during the first three years of certification. This extension may be granted after the ninth year of original eligibility up to a period which represents thirteen years of certification for tax credits. *Id.* § 120(c)(2), as amended by ch. 675, § 56, 1977 N.Y. Laws 1058-59.

able only upon authorization of the local legislative body. This relief has not always been granted by municipalities.²³

Article 4-A was amended in 1970, by the addition of section (c)(ii) to extend the job incentive credits and exemptions to businesses in non-urban areas of the state. The benefits offered remained the same, but the eligibility requirements were altered. The legislature deleted the designation "urban", reduced the demographic qualifications to areas with populations of 50,000 or more,²⁴ and included businesses located in several of the principal cities in New York which would not otherwise have qualified under the 1968 legislation.²⁵ A separate provision specifically addressed industrial development in rural counties.²⁶ It granted eligibility to businesses located in counties in which the per capita income was twenty-five percent or more below the state average.²⁷ In this case, a business seeking to qualify could be located in a city, as long as the county itself was at least 55 percent rural.²⁸ For example, the city of Elmira, located in Steuben county, which is 55 percent rural, would be eligible under this formula if the per capita income of Steuben county fell below the lowest statewide per capita income. Thus businesses located in Elmira and certain other cities would not have to comply with the original Urban Job Incentive Program criterion that the business be located in a specifically low-income census tract, because the county in which they are located qualifies as an eligible rural county.

The tax credits created by the original statute were extended to businesses qualifying under these new criteria, and the Real Property Tax Law was amended to empower the taxing authorities of

23. See text accompanying note 80 *infra*.

24. 1970 N.Y. Laws, chs. 937-39, *codified at* N.Y. COM. LAW art. 4-A (McKinney Supp. 1977).

25. *Id.* § 115(c)(1) (McKinney Supp. 1977). The cities to which the Legislature specifically wished to extend the Job Incentive Program benefits were: Troy, Schenectady, Binghamton, Utica, Rome, New Rochelle, Mount Vernon, White Plains, and Niagra Falls. Legislative Memorandum, Urban Job Incentive Program Extension, 1970 N.Y. Laws 3016.

26. 1970 N.Y. Laws, ch. 939, § 1. This bill amended Section 115 of the Commerce Law by adding to subsection (c) a subdivision (ii) specifying demographic and economic standards for qualifying rural facilities. N.Y. COM. LAW § 115(c)(ii) (McKinney Supp. 1977). The amendment defined a rural county as one with a total rural population of at least fifty-five percent, according to the latest official census. 1970 N.Y. Laws ch. 939, § 2, *codified at* N.Y. COM. LAW, § 115(f) (McKinney Supp. 1977).

27. *Id.* § 115(c)(ii) (McKinney Supp. 1977).

28. *Id.* § 115(f) (McKinney Supp. 1977).

school districts to grant exemptions.²⁹ In 1972, the law was further amended to include Indian reservations,³⁰ and in 1975, to encompass counties which were members of the Federal Appalachian Regional Development Act.³¹ In 1976, the statute was again amended to embrace, until mid-1979 all businesses in New York State engaged in manufacturing and wholesaling.³² The new subdivision effectively qualified any business in a county not otherwise provided for,³³ and at the same time eliminated the specific demographic and income criteria which characterized the original law and previous amendments. In 1977,³⁴ the statute was again amended to extend the eligibility date to July 1, 1981.³⁵ At this time, it is not known whether the legislature will further amend this provision, or will be content with the present broad availability of Job Incentive Program benefits for the immediate future.

The 1976 amendment completed the substantial change in focus away from the initial urban-specific characteristics of the 1968 statute, to a statewide program of tax incentives. Legislative memoranda to the 1976 amendment pointed out that these new provisions would retain "some edge"³⁶ for businesses located in low-income (though not necessarily metropolitan) areas. It is difficult to understand precisely what this advantage is. The urban emphasis is presumptively retained by means of the requirements concerning the nature of qualified businesses—*i. e.*, manufacturing or wholesaling, in so far as such industry arguably tends to be located in urban environments; the five year time limitation for all-state businesses also ostensibly insures that widespread tax advantages of the Job Incentive Program will be available only during that short period. Such advantages for urban areas are at most inferential from the legislation and there is no assurance that future amendments will not continue to deemphasize urban development in favor of encour-

29. N.Y. REAL PROP. TAX LAW § 485(2) (McKinney 1976).

30. N.Y. COM. LAW, § 115(c)(iii) (McKinney Supp. 1977).

31. *Id.* § 115(c)(iv) (McKinney Supp. 1977).

32. 1976 N.Y. Laws ch. 798, § 1, *codified at* N.Y. COM. LAW § 115(c)(v) (McKinney Supp. 1977).

33. *Id.* § 115(c)(v) (McKinney Supp. 1977).

34. 1977 N.Y. Laws ch. 675, § 64 *codified at* N.Y. COM. LAW § 115(c)(v) (McKinney Supp. 1977).

35. *Id.* (McKinney Supp. 1977).

36. Legislative Memorandum, 1976 N.Y. Laws 2399.

aging businesses throughout the state to establish job development programs.

The 1976 amendment did impose a new and significant restriction on the granting of certificates of eligibility,³⁷ which appears to emphasize the development of existing facilities. The statute provided that certification would not be available to businesses which, as a result of receipt of the program's tax benefits from the state, either moved their facilities from one area within the state to another or abandoned one or more of their plants.³⁸ Because the withholding of certification is discretionary,³⁹ however, the Board might still grant the incentives in order to insure that the firm remain in New York State,⁴⁰ or to secure the company's competitive position in the particular industry.⁴¹

The tax credits available to a certified facility include credits against the corporate franchise tax,⁴² the unincorporated business tax,⁴³ or the banking corporation franchise tax,⁴⁴ whichever is appropriate. These credits may not reduce the total tax paid by a corporation to less than the statutory minimum of \$250.⁴⁵ Nor can they exceed the total property value of the facility.⁴⁶

The amount of credit for which a qualified facility is eligible is determined by a complex formula which involves multiplying the tax otherwise due by a fraction which represents half the ratio of job-incentive program-generated real and tangible property values, and similarly generated wages, salaries and personal compensation, to the average total property values and total non-executive salaries and compensation.⁴⁷

37. N.Y. COM. LAW § 120(h) (McKinney Supp. 1977).

38. *Id.* (McKinney Supp. 1977).

39. *Id.* § 120(a)-(f) (McKinney Supp. 1977).

40. *Id.* § 120(h) (McKinney Supp. 1977). The Legislative Memorandum accompanying the amendment stated: "The benefits of the program are such that they should be made available . . . to the entire State in order to make the entire State more competitive nationally and to lessen the possibility of intra-state competition." LEGISLATIVE MEMORANDUM, 1976 N.Y. Laws 2399.

41. N.Y. COM. LAW § 120(h) (McKinney Supp. 1977).

42. N.Y. TAX LAW § 210(11) (McKinney Supp. 1977).

43. *Id.* § 701(c) (McKinney 1976 & Supp. 1977).

44. *Id.* §§ 219-rr, 1456(b) (McKinney Supp. 1977).

45. *Id.* § 210(1)(a)(4).

46. *Id.* § 210(11)(e).

47. *Id.* § 210(11)(b) (McKinney Supp. 1977). The eligible percentage of wages specifically excludes the expenditures (wages, salaries, personal compensation) for general executive

The other major incentive available to a certified eligible business facility is an exemption from real property and ad valorem taxes levied by the appropriate political subdivision. Section 485 of the Real Property Tax Law, the enabling legislation, authorizes exemptions from real property and ad valorem levies according to the following manner: in cities with populations of between 50,000 and 125,000, the exemption is from real property and ad valorem taxes; in rural counties, the exemption is from similar county levies; in cities of over 125,000, the exemption is from city and school taxes; and, in counties where the taxing authority is a school district, the exemption is from school taxes.⁴⁸ The exemption would be in the amount of the increased property valuation which is directly attributable to the job incentive program capital improvements.⁴⁹

B. The Industrial Incentive Program.

The second program enacted by New York State to enhance job creation and industrial development does not have as cohesive a statutory scheme as the first. Its provisions are found in scattered sections of the codified laws.⁵⁰ Nevertheless, the Industrial Incentive Program seeks to stimulate industrial development through a series of credits and exemptions available to businesses which develop or improve industrial or commercial sites. As with the Job Incentive

officers. *Id.* Provision is made in each statute for situations where no non-executive salaries are paid, or incurred during a given year, and in this event, the credit is determined by multiplying the tax otherwise due by the property ratio only. *See, e.g., id.* § 210(11)(b)(3). The total eligible property value includes the costs of capital improvements to real property, the value of leased real and tangible personal property, and the cost of expenditures for non-automobile tangible personal property. *Id.* The formula for arriving at the value of leased real and tangible personal property (provided such property was leased after July 1, 1968, the enactment date of the original statute) is to multiply by eight the net annual rental rate or portion of such rental rate attributable to a Job Incentive Program use. *See, e.g., id.* § 210(11)(d)(2) & (4). All the preceding expenses must have been incurred after July 1, 1968. *Id.* § 210(11)(d)(1-4). The property valuation does not include the value of instate inventory. *Id.* § 210(11)(b)(1). The total eligible wages include only those wages, salaries and personal compensation which represent expenses for individuals employed or retained as a result of the Job Incentive Program. *Id.* § 210(11)(b)(2). The statute also provides for prorating if the facility qualifies for only a portion of a given year, or if the property is sold. *Id.*

48. N.Y. REAL PROP. TAX LAW § 485 (McKinney 1976 & Supp. 1977).

49. *Id.* § 485(3). The statute defines capital improvements as those involving construction, reconstruction, erection or improvement of depreciable real property . . . in . . . [an eligible] facility." *Id.*

50. *See, e.g., id.* §§ 489mm-489ss; N.Y. TAX LAW §§ 201(12), 606(a), 701(c) (McKinney 1976 & Supp. 1977).

Program, these tax benefits are available to businesses in both urban and non-urban areas. However, unlike the Job Incentive Program, which has lost much of its urban focus through amendment, this legislation does much toward creating some tax advantages for businesses located in a metropolitan area of one million or more.⁵¹

The first group of incentives offered by this program provides for investment credits against income,⁵² and franchise taxes.⁵³ Originally enacted in 1969 to replace the existing double depreciation benefits available to specific industrial facilities,⁵⁴ these provisions create a credit in the amount of a specified percentage of the value of capital investment (tangible personal and other tangible property).⁵⁵ The credit may be from one to four percent of this valuation, depending on when the property was acquired, constructed or reconstructed.⁵⁶ The scale favors those investments made between De-

51. N.Y. REAL PROP. TAX. LAW §§ 489mm-489ss (McKinney Supp. 1977). The bill was written to apply essentially to businesses in New York City, and represents an emphasis on the part of the Legislature to create a tax program which would be specifically limited to and advantageous for industrial development in New York City. *Id.*

52. N.Y. TAX LAW § 606(a)(2) (McKinney 1976).

53. *Id.* §§ 210(12), 701(c) (McKinney 1976 & Supp. 1977).

54. The previous incentives involved an accelerated or double depreciation allowance for productive facilities. The introduction of investment credits in 1969 (ch. 1072, 1969 N.Y. Laws 2037) was seen as an improvement over the double depreciation benefits, because it provided a more direct (*i.e.*, related to industrial investment) and speedy means for encouraging development of productive facilities. *See, e.g.*, ST. DEPT. OF TAX. AND FIN. MEMORANDUM, 1969 N.Y. Laws 2503. The investment credit was initially computed at a rate of one percent of the cost of the capital investment, 1969 N.Y. Laws, ch 1072. In 1974, the statute was amended to provide a two percent credit for development taking place after January 1, 1974. 1974 N.Y. Laws, ch. 190, § 1. And in 1977 the present sliding scale was introduced, 1977 N.Y. Laws, ch. 173, § 2, allowing a credit of from one to four percent, depending on the time the improvement is made. *See, e.g.*, note 56 *infra*.

55. N.Y. TAX LAW §§ 210(12)(a); 606(a); 701(d) (McKinney 1976 & Supp. 1977).

56. For example, the investment credit allowed against the business franchise tax (*Id.* § 210(12)(a)) is computed as a percentage of the cost of tangible personal and other tangible property which qualifies under subsection (b) of the statute, according to the Table I:

ember 31, 1977 and December 31, 1980.⁵⁷

The investment credit is allowed against tax on property which meets five requirements: (1) the property must be depreciable,⁵⁸ (2) it must have a useful life of at least four years, (3) it must be acquired by purchase,⁵⁹ (4) it must be located in New York State,

Date Property Constructed, Reconstructed, or Erected	Percentage
After 12/31/68 but prior to 1/1/74	1%
After 12/31/73 but prior to 1/1/78	2%
After 12/31/77 but prior to 1/1/79	2½%
After 12/31/78 but prior to 1/1/80	3%
After 12/31/78 but prior to 1/1/81	4%
After 12/31/80	2%

Id.

57. As indicated by the preceding footnote, the legislation gives more incentives to industrial development taking place from 1978 to 1980. *See id.* §§ 210(12)(a), and 701(d).

58. The requirements for the investment credit, *Id.* § 210(12)(b), are tailored to some of the federal requirements for a twenty percent depreciation allowance. 26 U.S.C. § 167 (1970). Presumably this has been done to enable businesses which qualify for the New York State investment credits to also qualify for the Federal benefits. Thus, "depreciable property" is generally defined according to 26 U.S.C. § 167 (1970), as "(1) . . . property used in the trade or business, (2) . . . property held for production of income." *Id.* Depreciation includes "exhaustion, wear and tear including a reasonable allowance for obsolescence." *Id.*

59. Acquisition by purchase must be determined by the Internal Revenue Code definition of purchase I.R.C. § 179(d).

The Code defines purchase as: . . . any acquisition of property, but only if

(A) the property is not acquired from a person whose relationship to the person acquiring it would result in disallowance under section 267 or 707(b). . . .

(B) The property is not acquired by one component member of a controlling group from another component member of the same controlled group, and

(C) The basis of the property in the hands of the person acquiring it is not determined—

(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(ii) under section 1014(a)(relating to property acquired from a decedant).

Id.

and (5) it must be used primarily in manufacturing.⁶⁰ Credits are not allowed for property if it is leased to another individual or corporation, and the total amount of the credit may not reduce the tax paid to less than the minimum corporation tax.⁶¹ The statute does allow a carry-over⁶² of any unavailable amount of credit to the following year.⁶³

The second group of incentives for industrial development is provided by two sections of the Real Property Tax Law, one specifically dealing with New York City⁶⁴ and the other applying to the remainder of the state.⁶⁵

Enacted in 1976, Title 2-C of the Real Property Tax Law⁶⁶ creates an exemption which is available to businesses in cities with a population of one million or more. Upon certification by the Industrial and Commercial Incentive Board,⁶⁷ a qualified business becomes entitled to partial exemptions from real property taxation for construction and for rehabilitation of industrial or commercial structures. If the company has completed board-approved reconstruction⁶⁸ it is entitled to a nineteen-year vanishing exemption which is

60. For example, section 210(12)(b) of the New York Tax Law defines "manufacturing" as "the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combinations to matter which already has gone through some artificial process by the use of machinery, tools, appliances, and other similar equipment." N.Y. TAX LAW § 210(12)(b) (McKinney Supp. 1977).

61. *Id.* § 210(12)(e).

62. *Id.* See also, the carry-over provisions in N.Y. TAX LAW § 606(a)(5) & § 701(d)(5) (McKinney 1976 & Supp. 1977).

63. In 1975, the Legislature added section 12-A to the Tax Law, 1975 N.Y. Laws, c. 895, § 13, to provide an additional credit for businesses which already qualified for investment tax credits. This credit is an incentive to increase the number of employees. If the qualified business employs in one year 101% of the employees employed in the previous year, a credit is given which amounts to half the investment credit received by the business. This employment investment credit may be taken for three successive years, and the same minimum tax and carry-over provisions apply. N.Y. TAX LAW § 210(12-A) (McKinney Supp. 1977).

64. N.Y. REAL PROP. TAX LAW tit. 2-C, §§ 489-mm to 489-uu (McKinney Supp. 1977).

65. *Id.* § 485-b.

66. 1976 N.Y. Laws, ch. 279.

67. The Industrial and Commercial Incentive Board, as defined in N.Y. REAL PROP. TAX LAW §§ 489-nn, 489-oo (McKinney Supp. 1977), is empowered to grant certificates of eligibility for the investment exemptions. *Id.* § 489-oo(3).

68. *Id.* § 489-mm which defines reconstruction as "the modernization, redevelopment, expansion, or other improvement of an existing commercial or industrial structure where the total proposed investment is of an amount equal to at least twenty percentum of the assessed value of the property at the time an application for a certificate of eligibility pursuant to this title is made." *Id.* § 489-mm(7).

a percentage of the increased valuation of the real property.⁶⁹ However, these improvements must have cost at least twenty percent of the assessed value of the property.⁷⁰ If the improvements are by new construction, the business is granted a ten-year exemption, again on the basis of the increased valuation of the property, with an initial maximum exemption of fifty percent for the first year.⁷¹

There are similar provisions in Section 485-b of the Real Property Tax Law,⁷² which apply to businesses located in other areas of the state. They differ from Title 2-C, however, in two respects. The exemption applies to both constructed and improved facilities. In Title 2-C, there are instead two separate exemption schedules, one for each of development. The maximum exemption for both construction and improvement is fifty percent of the increased valuation, and the exemption is available for only ten years.⁷³ Further, the local legislative body is authorized to reduce the percentage⁷⁴ of the exemption available as compared with the direct grant of the Title 2-C exemptions.

The tax incentives of the Industrial Incentive Program place a limited but specific emphasis on urban development. While the focus of the Job Incentive Program has been diverted from solely urban businesses, the investment credit schemes contain particular benefits for businesses operating in large urban areas such as New York City.

III. Tax Incentives for Housing Construction

Tax incentives for housing construction and attendant area development represent the second broad area for which the State has created inducements to private-sector development. Like the Job

69. *Id.* § 489-pp. The exemption initially is in an amount equal to 95% of the increased valuation of the reconstructed property, and this percentage is decreased by 5% a year, to the nineteenth year, when it equals 5% of such valuation. *Id.*

70. *Id.* § 489-mm(7).

71. *Id.* § 489-pp(1). Like the exemption for reconstructed property, the exemption for new construction is a vanishing exemption. The maximum percentage of increased valuation provided for is 50% for the first year. This percentage decreases over a ten-year period to a 5% exemption in the tenth year. *Id.* § 489-pp(1). It should be noted that the investment credit may not be applied to certain residential construction. *Id.* § 489-pp(4). Nor is it available to industrial development which would result in displacing buildings with twenty-five or more dwelling units. *Id.* § 489-pp(5).

72. *Id.* § 485-b(2)(a).

73. *Id.*

74. *Id.* § 485-b(7).

Development incentives, the tax programs for housing and neighborhood renewal are not generally urban-specific; however, this group of incentives seems to present more realizable benefits to the private investor in urban development.

The New York State Private Housing Finance Law⁷⁵ is the principal vehicle for cooperative government-private urban development. It must be read in the context of the general provisions of article XVIII of the New York State Constitution,⁷⁶ which give the state authority to enter into agreements with, and grant benefits to private corporations for housing development. Added in 1938, article XVIII⁷⁷ seeks to further two stated objectives: (1) to provide low-rent housing to persons of low incomes, and (2) to provide for the clearing and redeveloping of "substandard and unsanitary"⁷⁸ areas. It empowers the Legislature to authorize or grant tax exemptions in order to implement these aims.⁷⁹ In practice, with a few notable exceptions to be discussed below,⁸⁰ the Private Housing Finance Law implements this article XVIII power by authorizing the local legislative unit to exempt businesses which participate in housing and development programs, rather than by granting such exemptions outright. As a result, such tax benefits are optional with the locality. Thus, the availability of Private Housing Finance Law exemptions depends for the most part on whether the particular governing body believes such housing improvements to be necessary and whether it perceives that granting tax benefits for such purpose will not unduly erode the tax base.

75. NEW YORK PRIVATE HOUSING FINANCE LAW, arts. 1-16 (McKinney 1976 & Supp. 1977). The Private Housing Finance Law was enacted in 1961, 1961 N.Y. Laws, chs. 803, 804. It represented a consolidation of statutes previously enacted in other parts of the code. The law combined in one chapter those statutes which related to private investment in housing construction and related development, and to programs specifically designed to encourage such development through government cooperation with the private investor.

76. N.Y.S. CONST. art. 18.

77. *Id.*

78. *Id.* § 1.

79. The New York State Constitution, article 18, section 2, states in relevant part: "For and in aid of the purposes of section 1 . . . the legislature may . . . grant or authorize tax exemptions in whole or in part, except that no such exemption may be granted or authorized for a period of more than sixty years." *Id.*

80. These exceptions involve the few situations where the Legislature has granted tax exemptions, and involve primarily programs created under the Urban Development Corporations Law, N.Y. UNCONSOL LAWS, ch. 24, subch. I, N.Y. S. URBAN DEVELOPMENT CORPORATION ACT, §§ 6251-6285 (McKinney Supp. 1977). For a discussion of the U.D.C. programs see text accompanying notes 139-152 *infra*.

The Private Housing Finance Law⁸¹ was enacted in 1961 to codify the previously enacted statutes which dealt with private sector housing construction for low and middle income residents.⁸² Tax incentives for housing and related urban development are found in the sections which deal with limited-profit housing companies, limited dividend housing companies, redevelopment corporations, and subsidiaries of the New York State Urban Development Corporation.

The specific tax incentives for housing development consist primarily of partial and complete exemptions from real property taxation,⁸³ and more limited exemptions from income,⁸⁴ franchise,⁸⁵ organization⁸⁶ and mortgage recording⁸⁷ taxes. There are other forms of incentives, such as provisions for abatements,⁸⁸ deductions,⁸⁹ and tax credits,⁹⁰ but the focus of the state's program in this area is on real estate tax exemption.

A. Limited-Profit Housing Companies.

The Limited-Profit Housing Companies Law,⁹¹ Article 2 of the Private Housing Finance Law, is also known as the Mitchell-Lama⁹²

81. 1961 N.Y. Laws, ch. 803.

82. See, e.g., the Limited-Profit Housing Companies Law, added 1955 N.Y. Laws, ch. 407, § 1 which is now codified as N.Y. PRIV. HOUS. FIN. LAW, art. 2, §§ 10-37 (McKinney 1976 & Supp. 1977).

83. N.Y. PRIV. HOUS. FIN. LAW, §§ 33, 93, 125, (McKinney 1976).

84. *Id.* § 93.

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.* § 405(2). For example, tax abatements for housing improvements are authorized for housing which was improved by a municipally-financed loan to an owner of an existing multiple dwelling. The authorization of exemption/abatement is optional with the local legislative body, and may amount to the increased valuation (for exemptions) or for an abatement of all local property taxation. *Id.* § 405(2).

89. Section 360(12) of the New York Tax Law allows a tenant-stockholder of a cooperative corporation to deduct his share of the cooperative's real estate taxes, mortgage interest and business depreciation from his personal income tax. N.Y. TAX LAW § 360(12) (McKinney 1976 & Supp. 1977).

90. N.Y. REAL PROP. LAW § 339-d, The Condominium Act (McKinney 1976); *cf.* N.Y. TAX LAW §§ 250-67, art. 11 (McKinney 1976 & Supp. 1977) which permits a credit against the mortgage tax for a condominium owner in the amount of a prorata percentage of his interest times the amount of the paid mortgage tax on the entire condominium.

91. N.Y. PRIV. HOUS. FIN. LAW art. II, §§ 10-37 (McKinney 1976 & Supp. 1977).

92. The Limited-Profit Housing Company Law, originally enacted in 1955, 1955 N.Y. Laws, ch. 407, § 1 (subsequently codified at that time as N.Y. PUB. HOUS. LAW § 301, and now codified as N.Y. PRIV. HOUS. FIN. LAW §§ 10-37 (McKinney 1976 & Supp. 1977)), is known familiarly as the Mitchell-Lama Law. It takes this name from its sponsors, Senator

Law. Its stated purposes are to facilitate the construction of low-rent housing and neighborhood rehabilitation through governmental financial cooperation and the use of private incentives, such as real property tax exemptions.⁹³

The Limited-Profit Housing Companies program has been utilized predominantly to construct two kinds of housing: low-rent cooperatively financed (Mitchell-Lama) housing⁹⁴ and "auxillary" facilities for not-for-profit corporations such as housing for hospital and school staffs.⁹⁵

The incentive which article 2 provides for the Mitchell-Lama housing consists essentially of a real estate tax exemption granted to companies formed under this section.⁹⁶ The exemption is optional with the local legislative body in the first instance. It is authorized for an amount equal to the increased real property evaluation resulting from the housing company's acquisition of land and construction.⁹⁷ If the real property was acquired for the rehabilitation of a project, the exemption is authorized for an amount up to the total value of the project property⁹⁸ as long as it does not reduce the tax paid by the company to less than 10 percent of the projects annual shelter rents⁹⁹ or carrying charges.¹⁰⁰ A qualification on this exemption has been added for cities over one million in population. It is available only after a tax is paid which represents either the amount of the 1973 real property taxes due, or, if the project was not occupied in that year, an amount reached by the above criteria.¹⁰¹ If the limited-profit housing company is a "mutual" (cooperative) company,¹⁰² it is entitled to an exemption which results in its paying no

MacNeil Mitchell and Assemblyman Alfred Lama. The bill was introduced in response to the post-war housing shortage, as a stimulus for government and private participation in middle-income housing construction.

93. N.Y. PRIV. HOUS. FIN. LAW §§ 11, 11-A, 33 (McKinney 1976 & Supp. 1977).

94. *Id.* § 11.

95. *Id.* at § 13(17).

96. *Id.* § 33(1)(a).

97. *Id.*

98. *Id.*

99. *Id.* The statute defines shelter rents as "the total rents received from the occupants of a project less the cost of providing to the occupants electricity, heat and other utilities." *Id.*

100. *Id.*

101. *Id.*

102. *Id.* § 33(3). A mutual company is a company organized under the Private Housing Finance Law by tenants for acquisition of their building. *Id.*

more than twenty percent of the annual shelter rents or carrying charges,¹⁰³ with authorization for local bodies to further reduce this amount.¹⁰⁴

For a project formed as an auxiliary facility under the not-for-profit corporation law,¹⁰⁵ the tax incentive, as for all not-for-profit corporations, is complete exemption from real property taxation, ad valorem levies, and assessments.¹⁰⁶ Up to 10 percent of the property of such a facility may be used for other limited profit housing companies law purposes;¹⁰⁷ however, if more than 10 percent of the property is so used, while the above stated article 2 exemptions still apply, the company may not qualify for complete tax exemption.¹⁰⁸

The exemption is available for the duration of the limited-profit housing company's outstanding mortgage loan, but not longer than thirty years.¹⁰⁹ If the company obtains a federally-insured mortgage,¹¹⁰ however, the tax exemption is automatically granted, not merely authorized, in the amount of the increased property valuation.¹¹¹ Moreover, this exemption is available for the duration of the outstanding mortgage.¹¹²

In addition, if the company leases its property to the New York State Housing Finance Agency,¹¹³ or another housing authority,¹¹⁴ the company is entitled to an exemption equal to the increased assessed valuation of the building and improvements for the duration of the lease.¹¹⁵

B. Limited Dividend Housing Companies

Article 4 of the Private Housing Finance Law is the Limited Dividend Housing Company Law. It provides for the formation of private corporations created specifically to build and maintain middle-

103. See note 99 *supra*.

104. *Id.*

105. N.Y. NOT-FOR-PROFIT CORP. LAW §§ 401-05 (McKinney 1976 & Supp. 1977).

106. N.Y. REAL PROP. TAX LAW § 422(1)(a).

107. *Id.* § 422(1)(b).

108. *Id.*

109. *Id.* § 33(1)(a).

110. *Id.* § 33(1)(d).

111. *Id.* § 33(1)(d). This exemption must not reduce the tax paid to less than ten percent of the shelter rents or carrying charges. *Id.*

112. *Id.*

113. *Id.* § 33(2).

114. *Id.* § 33(3).

115. *Id.*

income housing projects.¹¹⁶ The sponsors must pay twenty percent of the actual cost of the project,¹¹⁷ and the investment return is limited to six percent.¹¹⁸ Additional state regulations result in a high degree of governmental supervision of these projects.

Those who form and operate a limited dividend housing corporation receive the benefits of a comprehensive state and local tax incentive program.¹¹⁹ The corporation is exempt from state franchise, organizational, mortgage recording and income taxes.¹²⁰ It is not required to submit registration and licensing fees to state officials.¹²¹ The statute authorizes local legislative bodies to exempt from local taxation for fifty years¹²² all projects completed prior to January 1, 1939.¹²³ If local tax exemption is allowed, an exemption from state taxes in an amount equal to the local exemption will apply.¹²⁴ A fifty year local real property tax exemption is also authorized for projects built between January 1, 1939 and January 1, 1973,¹²⁵ and is computed from the increased valuation due to the project's construction. A state tax exemption is computed in a similar manner.

116. N.Y. PRIV. HOUS. FIN. LAW art. 4, §§ 70-97 (McKinney 1976). This article was originally N.Y. PUB. HOUS. LAW art. IX and was incorporated into the Private Housing Finance Law in 1961, when the separate chapter was added. *Id.* See text following note 80 for history of the Private Housing Finance Law.

117. N.Y. PRIV. HOUS. FIN. LAW § 79 (McKinney 1976). There is an exception to the 20%-of-cost participation requirement, which applies to Urban Development Corporations, or U.D.C.-loan financed corporations. Such corporations are required to participate only to the extent of 5% of the cost. Further, if a municipality loans money to the corporation, or if the corporation project is financed by federal loans or a federally-insured mortgage, there is no minimum required participation. *Id.*

118. *Id.* § 76. The investment return may be 6% on stock or debentures. There are also carry-over provisions which provide that if no distribution has been paid in a previous year, the profit may be paid in the following years. *Id.*

119. See, e.g., *id.* § 82. This section, entitled "Limitations," enumerates the restrictions on limited dividend housing corporations. The restrictions include requirements for state approval of contracts, sales and leases, rental charges, etc.

120. *Id.* § 93(1).

121. *Id.*

122. *Id.* § 93(5).

123. *Id.* § 93(3). This exemption is limited to projects completed prior to January 1, 1939. *Id.* Subsection (4) applies to projects built between January 1, 1939 and January 1, 1973. *Id.* § 93(4).

124. *Id.* § 93(3).

125. *Id.* § 93(4).

C. Redevelopment Companies.

The Private Housing Finance Law provides for establishing two types of redevelopment companies: corporations formed in accord with the Redevelopment Companies Law,¹²⁶ and those formed under the Urban Redevelopment Corporations Law.¹²⁷ The Urban Redevelopment Corporations Law predated the Redevelopment Companies Law; but as will become apparent from the following discussion, the tax advantages of the Redevelopment Companies Law soon overshadowed, both in amount and in duration, the minimal benefits which the state accorded Urban Redevelopment Corporations.

1. *The Redevelopment Companies Law.*

The Redevelopment Companies Law,¹²⁸ presently Article 5 of the Private Housing Finance Law, was originally enacted in 1942 to facilitate financing and construction of housing specifically undertaken by insurance companies.¹²⁹ Although amended to include other private investors,¹³⁰ the bias for insurance company participation remains in the present statute.¹³¹ The most prominent redevelopment corporation of this type is the Stuyvesant Town project, financed by the Metropolitan Life Insurance Company.¹³² The statute also provides for the formation of "mutual"¹³³ redevelopment corporations, similar to those provided for in the limited-profit housing companies statute, which are substantially tenant-benefit corporations.

The redevelopment corporation formed under this section is distinguishable from other Limited-Profit and Limited Dividend hous-

126. *Id.* §§ 100-26.

127. *Id.* §§ 200-21.

128. *Id.* §§ 100-126.

129. 1942 N.Y. Laws, ch. 845.

130. 1943 N.Y. Laws, ch. 234.

131. N.Y. PRIV. HOUS. FIN. LAW § 1 (McKinney 1976) reads, in part, "that provision must be made to enable insurance companies to provide such facilities . . ." *Id.* Section 124 is devoted primarily to insurance company participation and details the circumstances and conditions by which redevelopment corporations may be formed and implemented by insurance companies. *Id.* § 124.

132. Metropolitan Life Insurance Company seems to have been one of the few insurance companies to take advantage of the Redevelopment Companies Law. It has been noted that many of the corporations formed under this statute are formed as tenant cooperatives, rather than as projects of insurance companies. See, e.g., Morris, *The Development of New Middle Income Housing in New York*, 10 N.Y. Law Forum 492, 500 (1964).

133. N.Y. PRIV. HOUS. FIN. LAW, § 126 (McKinney 1976).

ing companies by the nature of its relationship with the local governing unit. The corporation constructs housing¹³⁴ through a contractual agreement with the municipality, agreeing to build on land acquired by the local government. This municipal unit, in turn, agrees to give the corporation certain tax exemptions.¹³⁵

The outside limits of the exemption are prescribed by statute, to an amount (or percentage thereof) which represents the increased real property valuation for new construction projects, or an amount (or percentage thereof) of the total property values for rehabilitation projects.¹³⁶ The statute further limits the maximum duration of exemption to twenty-five years, with certain special provisions for mutual redevelopment company projects.¹³⁷ However, the specific exemption which a redevelopment corporation will receive, within these limits, is determined by the particular contract which it has made with the local governing unit. The return on investment is limited by the statute to six percent.¹³⁸

2. *Urban Redevelopment Corporations.*

Article 6 of the Private Housing Corporations Law is the Urban Redevelopment Corporations Law. This statute predated the redevelopment companies statute,¹³⁹ focusing primarily on urban housing and area development. The article specifically applies to redevelopment corporations formed for construction and rehabilitation in urban areas.

134. *Id.* §§ 101, 114(2). The statute does not limit redevelopment corporations to housing construction. Commercial space may be built in the project area, provided the primary rental units are for housing. *Id.*

On the other hand, sections 250 to 261 specifically provide for the formation of community development corporations to construct such civic or cultural facilities as libraries, auditoriums, etc., in urban renewal areas. *Id.* § 251. These corporations are not-for-profit corporations and therefore are exempt from all taxation. *Id.*

135. *Id.* § 125(1)(a).

136. *Id.*

137. *Id.* The tax exemption for mutual redevelopment corporations may be extended up to twenty-five years beyond the original exemption period, in the amount of 50%. Further, this extension is effected by a sliding percentage scale over the twenty-five year period, from an exemption amount equal to the original exemption for the first two years, with a decrease every two years thereafter. If such a project is "permanently" financed by a federally assisted mortgage, the tax exemption is available for the duration of the mortgage or forty years whichever is shorter. *Id.*

138. *Id.* § 107.

139. This statute was added in 1941, 1941 N.Y. Laws, ch. 892, § 1, and article V, the Redevelopment Corporation Law was added the following year, 1942 N.Y. Laws, ch. 845, § 1.

The statute better resembles the limited-profit and limited dividend housing statutes, since these urban redevelopment corporations are not formed by contract with the municipality, but are created only by conformance with the statute.¹⁴⁰ Thus, the tax incentives are simply inducements proffered by the state to encourage private investment in urban housing and related development.

The actual incentive authorized by the statute is limited to a ten-year exemption from any increase in local real property taxation over the maximum assessed valuation of the property at the time of acquisition.¹⁴¹ Under the statute, a corporation may only develop one project.¹⁴²

D. Urban Development Corporation Subsidiaries

In 1968, the legislature passed the New York State Urban Development Corporation Act.¹⁴³ The Act created the Urban Development Corporation (the "U.D.C."), a "corporate governmental agency,"¹⁴⁴ with broad powers to finance and participate in a variety of comprehensive urban development programs.¹⁴⁵ The corporation was specifically denominated "a political subdivision and public benefit corporation,"¹⁴⁶ thus sidestepping many of the problems which had plagued previously enacted development corporation statutes. Due to its unique incorporation scheme, the U.D.C., as a political subdivision, is exempt from all state and local taxation. The Act sought particularly to stimulate industrial development and housing construction in urban areas.¹⁴⁷ As a significant inducement to private business cooperation in such urban development, the statute provides for the organization of housing companies as

140. *Id.* § 205.

141. *Id.* § 211. Section 202 defines maximum local tax as "the local tax which would have been payable on [any parcel of real property] if the assessed valuation for the purpose of such local tax had been, contrary to fact if need be, equal to the maximum assessed valuation." *Id.* § 202. Section 211(2) provides for consolidation of several parcels of land, for the purpose of qualifying them all for the exemption, so that a single acquisition date may be established. *Id.* § 211(2).

142. *Id.* § 206(4).

143. N.Y. UNCONSOL. LAWS, ch. 24, subc. I, NEW YORK STATE URBAN DEVELOPMENT CORPORATION ACT, §§ 6251-6285 (McKinney Supp. 1977).

144. *Id.* § 6252.

145. *Id.*

146. *Id.* § 6254.

147. *Id.* § 6252.

subsidiaries of the U.D.C.¹⁴⁸ Under Section 12 of the act, limited profit and limited dividend housing companies can be formed as subsidiary Urban Development Corporations,¹⁴⁹ thereby qualifying for certain tax incentives which are more advantageous than those provided by the Private Housing Finance Law. To qualify as a subsidiary corporation, the housing company must have either (1) half of the corporations's voting shares owned or held by the Urban Development Corporation, or (2) a board of directors, trustees or membership, a majority of whom are persons designated by the Urban Development Corporation.¹⁵⁰ Thus qualified, the Urban Development Corporation subsidiary becomes eligible for those exemptions generally available to the Urban Development Corporation.¹⁵¹ These incentives include state-mandated relief from all local real property taxes (except for local improvement assessments),¹⁵² exemption from all State taxes (except estate and gift taxes),¹⁵³ and from state income taxes.¹⁵⁴

An Urban Development Corporation subsidiary limited-profit housing company is entitled to these exemptions for the duration of the outstanding mortgage, but not exceeding thirty years.¹⁵⁵ The tax paid, however, must amount to at least ten percent of the annual shelter rents or carrying charges.¹⁵⁶ An Urban Development Corporation subsidiary limited dividend housing company is allowed the same relief for the duration of its outstanding mortgage, up to forty years.¹⁵⁷

Redevelopment companies were excluded from qualifying as subsidiaries, presumably because the act itself provides for the formation and acquisition of specific types of development corporations and urban housing and renewal projects.¹⁵⁸

Tax relief for private housing construction has most often been

148. *Id.* § 6262. Subsidiary is defined in section 6253(11) as "a corporation created in accordance with section twelve of this act." *Id.* § 6253.

149. *Id.* § 6262(1).

150. *Id.*

151. *Id.* § 6262(2).

152. *Id.* § 6272.

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.*

158. *See, e.g.,* §§ 6255, 6255(14), 6256, 6257, 6258, 6259.

utilized in urban areas, particularly New York City, where the number of rental units represents a large portion of the total housing stock.¹⁵⁹ The state incentive programs, however, may not be attractive to any but the largest businesses, as the return on profit is limited, and the regulations which must be complied with are complex.

IV. Conclusion

These well-intended, albeit timid approaches to the most pressing social problems worked surprisingly well at first. The limited relief offered by way of taxation resulted in the construction of low- and middle-income housing units at a relatively low occupancy cost, while still maintaining the economic viability of the projects. Improved job opportunities by way of industrial expansion, while not nearly as visible, probably occurred to a degree.¹⁶⁰

However, the basic problems of urban areas—high unemployment concentrated in the same low-income areas characterized by substandard housing—have not been solved by tax relief. The experience with tax relief makes it at least arguable that this is not even a sound approach to problems of this magnitude. It can no longer be assumed that the available tax incentives, once viewed as adequate stimuli for construction and maintenance, will continue to counterbalance the construction and operating expenses which such projects presently entail. Even though recent figures indicate a stabilization, if not an appreciable drop, in unemployment, it is debatable whether the various industrial expansion incentives contribute to a decrease in joblessness in blighted urban areas.

In the 1960's, New York State employment grew at a rate of 8.7 percent, considerably below the national average of 16.4 percent.¹⁶¹ During the early 1970's, while the national employment growth rate increased by 11 percent, the rate for employment in New York State actually decreased by 1 percent.¹⁶² Between 1970 and 1974, the state

159. N.Y.S. DEPT. OF COM., 1974 BUSINESS FACT BOOK, Part 2. In 1974, New York City housing stock consisted of 76 percent rental units, as compared with a state-wide average of 31 percent.

160. See, e.g., N.Y.S. EXEC. DEP'T MEM., 1970 N.Y. Laws 3017, which noted that by 1970, 4,962 jobs had at that point been created or retained through the Job Incentive Program.

161. PURYEAR & BAHL, ECONOMIC PROBLEM OF A MATURE ECONOMY, NEW YORK STATE'S ECONOMIC CRISIS: JOBS, INCOME AND ECONOMIC GROWTH, LABOR MANAGEMENT CONFERENCE ON THE BUSINESS CLIMATE AND JOBS IN NEW YORK STATE 20 (1975).

162. *Id.*

lost approximately 1 million jobs.¹⁶³ Even more significant, the employment growth rate for New York City, during the 1960-74 period, was approximately 30 percent lower than the state as a whole.¹⁶⁴

Tax relief proved to be the all too familiar cosmetic approach to a problem requiring massive economic legislation. If not too late, it was certainly far too little. Worse than that, it was probably delusive, diverting attention from the capital infusion really needed.

163. *Id.*

164. *Id.* at 21.

