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THE ADMINISTRATION'S  
ENTERPRISE ZONE PROPOSAL

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## The Administration's Enterprise Zone Proposal

The Administration proposes the creation of an Enterprise Zone program, which is an experimental, free-market initiative for dealing with economic distress in inner cities and rural towns. This memorandum outlines the Administration's proposal.

### Concept, Purpose and Elements

Concept. The Enterprise Zone concept is based on utilizing the market to solve the problems of the Nation's economically depressed areas, relying primarily on private sector institutions. The idea is to create a free-market environment in these areas through the removal of taxes, regulations and other government burdens. The removal of these burdens will create and expand economic opportunity within the zone areas, leading to the economic revitalization of these areas and to real, private sector jobs for the disadvantaged individuals in or near those areas. This would be similar to the free trade zones established in other parts of the world, such as Hong Kong, which have been quite successful in stimulating the development of poor areas.

Enterprise Zones are thus based on an entirely fresh paradigm of thought concerning economic growth and distressed areas. The old approach was based on two elements--subsidy and central planning. This involved taxing away part of the hard-earned income of workers and producers to give subsidies to others in need, maintaining or increasing their economic dependency. It also involved massively bureaucratic urban renewal projects and other central planning tools aimed at redirecting existing economic activity.

The new approach is instead based on market processes. Instead of subsidy, it focuses on removing government barriers to economic growth, barriers which are preventing people from creating, producing and earning their own wages and profits. The approach is to focus on what the government is doing that inhibits economic growth, that prevents people from achieving the kinds of things they want. And instead of central planning, the new approach seeks to create a general climate of open markets where entrepreneurs and economic activity could flourish, relying on market forces to determine the course of redevelopment within the zones.

The concept involves not just removing taxes and regulations within the zone areas, but also attempting to solve problems and provide services through increased reliance on decentralized, voluntary, private, market institutions rather than highly centralized, bureaucratic, government institutions. An additional category of government barriers to economic growth is inadequate municipal services which the government has monopolized and thereby foreclosed to alternative providers. The Enterprise Zone program could, therefore, involve experimentation with the private provision of municipal services, where feasible and prudent. It could also involve utilization of private, local community organizations to facilitate participation by zone residents in the economic development of the zone areas and to help deal with social problems in those areas.

Purpose. The purpose of the Enterprise Zone program is twofold. One objective is to create jobs in the nation's depressed areas, particularly jobs for disadvantaged workers. But another objective is to redevelop and revitalize the geographic zone areas themselves.

The intent behind the program is to stimulate new economic activity within the zones that would not have otherwise occurred at all, anywhere, rather than to encourage existing outside activity to relocate into the zones. However, it is quite possible that some entrepreneurs considering the establishment of entirely new businesses and some existing firms considering major expansions will locate their new facilities within the zones, even though they would have gone ahead with these projects elsewhere in the absence of the program. While relocation in this sense is not as purely beneficial as the stimulation of entirely new activity, bringing such economic development to the Nation's depressed urban areas has important social benefits and would, therefore, still be an advantageous result of the program.

In addition, the intent behind the program is not to attempt to stimulate a particular kind of business, but rather to let the market decide what activities should take place in the zones. The Federal tax incentives in the Administration plan are skewed towards the encouragement of labor-intensive activities and the creation of jobs for disadvantaged workers. But apart from this, the program is meant to include a relatively balanced set of incentives for a broad range of economic activities and businesses. There should be no attempt to exclude incentives for large businesses, but at the same time innovations are necessary to ensure that there are meaningful incentives for small businesses. Incentives for housing and commercial real estate development should not be ignored, especially considering the great need for such activity in potential zone areas.

This balanced approach will avoid perversion of the program into a form of central economic planning which attempts to dictate the location of particular types of economic activity. It is also more likely to result in the stimulation of permanent and enduring economic activity, organically integrated into the national economy and the local community.

The program is to be viewed as an experimental one, at least in its initial years.

No Appropriations. The basic concept of the program demands that it involve no appropriations, at least at the Federal level, except for necessary administrative expenses. Such appropriations were characteristic of the old approach of providing direct subsidies, rather than the new Enterprise Zone approach of removing government burdens. States and cities would still have the option of allocating their discretionary Federal funds to their Enterprise Zones if they desired to do so, or to appropriate additional funds for such zones on their own.

Elements. A comprehensive Enterprise Zone program would, therefore, contain the following elements:

- (1) tax relief at the Federal, state, and local levels;
- (2) regulatory relief at the Federal, state, and local levels;
- (3) efforts to improve public services, possibly including experimentation with private alternatives for those services;
- (4) involvement in the program by private, local, neighborhood organizations.

These four elements should together provide incentives and opportunities in each of the following categories:

- (1) incentives for employers to establish businesses and create jobs in the zone areas;
- (2) incentives for employees, particularly the currently poor and/or unemployed to obtain jobs within the zone areas;
- (3) opportunities for zone residents and other disadvantaged individuals in the zone areas to participate in the economic success of the zones.

In addition to these elements, the Enterprise Zone program should be consistent with the Administration's other policies, such as Federalism and the Economic Recovery Program.

### Program Structure

This section will discuss how the zones would be established and administered under the Administration's plan.

1. The Eligibility Criteria. Initially, areas which meet certain criteria would be eligible to become Enterprise Zones under the Federal program. These eligibility criteria would be basically the same as in HR 3824, S1310, currently before Congress. To be eligible, an area must be one of pervasive poverty, unemployment and general distress, as determined by the Secretary of HUD. The area must also be within a jurisdiction which satisfies the eligibility criteria under the UDAG program. (See Appendix A). The area must then satisfy one of four additional criteria:

- (a) the annual average unemployment rate in the area, as derived from the 1980 census, was at least one and one-half times the national average for the same period or
- (b) the area has a poverty rate of 20 percent or more for each census tract, minor civil division or census county division as determined by the 1980 census, or
- (c) at least 70 percent of the households of the area have incomes below 80 percent of the median income of the households in the jurisdiction of the local government nominating the area, or

- (d) the population in the area decreased by at least 20 percent between 1970 and 1980, as determined by the 1970 and 1980 census, respectively.

The eligible areas, however, would not automatically become Enterprise Zones, as this would not be an entitlement program. The actual Enterprise Zones would instead be designated within these eligible areas by the process discussed below.

These eligibility criteria were developed based on considerable advice from cities and urban and minority groups. They give considerable discretion to state and local governments to select the areas believed to be most suitable for Enterprise Zone status.

2. The Designation Process. An Enterprise Zone could initially be nominated by the local government, followed by confirming nomination by the State government, or by the State government followed by confirming nomination by the local government. These nominations would have to be by legislative action, although the State or local government could pass general legislation authorizing some body or individual to nominate each zone. Both the State and local governments would also usually have to pass legislation creating the State and local incentives to be contributed to each zone.

Both the nominating State and local governments would then apply to the Secretary of HUD for Federal designation of the nominated Enterprise Zone, which would allow the Federal incentives to apply to the zone as well. Federal designation would not be automatic or routine, however. Rather, the Secretary would evaluate the various nominated zones on a competitive basis against each other, choosing the best proposals for the limited number of Federal designations available each year.

Before the Secretary could approve a zone, it must meet five threshold requirements:

- (1) the zone as a whole must satisfy the eligibility criteria noted above,
- (2) the designated zone area must be within the jurisdiction of both the nominating State and local governments,
- (3) the boundary of the zone area must be continuous,
- (4) the zone area, if within an SMSA, must have a population of at least 4,000 or, if not within an SMSA, of at least 2,500, or must be entirely within an Indian reservation, and
- (5) both the nominating State and local governments must establish incentives for the zone.

In competitively evaluating the applications beyond these threshold requirements, the Secretary will give primary emphasis to the quality and strength of the state and local incentives to be contributed to the zones. The Secretary will in particular emphasize incentives or contributions in the

following four categories, which are consistent with the overall Enterprise Zone theme of creating an open market environment through the removal of government burdens:

- (1) tax relief, taking into consideration the fiscal ability of the nominating State and local governments to provide such relief,
- (2) regulatory relief,
- (3) improved public services, particularly through experimentation with privatization,
- (4) involvement in the program by neighborhood organizations and other private sector groups which can make contributions to the zones.

A number of other factors will also be important, however, and will weigh heavily in the competitive process. These factors would include:

- (1) incentives and contributions not included on the list above, such as job training, infrastructure grants or expenditures, and efforts to reduce high business insurance costs, to be committed to the zone,
- (2) effective and enforceable guarantees by the State and local governments that their proposed incentives and contributions will actually be provided for the indicated duration of the zone,
- (3) high levels of poverty and economic distress in the proposed Enterprise Zone, including proximity of the zone to concentrations of disadvantaged workers or long-term unemployed individuals and the likelihood that zone residents who satisfy these criteria would have employment opportunities in the zone,
- (4) the degree to which the size and location of the zone will stimulate primarily new economic activity and minimize unnecessary tax losses to the Federal Government,
- (5) the degree to which private entities have made commitments to provide additional resources and contributions for the zone, including the creation of new or expanded business activities,
- (6) other factors to be determined by the Secretary which are
  - (i) consistent with the intent of the Enterprise Zone program, and
  - (ii) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

The importance of these latter elements should not be underestimated. The Secretary will have the discretionary power to deny a zone application based on one of these elements alone, such as excessive size of a zone or poor boundary location. Factors such as business commitments to the zone will naturally figure prominently in choosing between applications.

The Secretary's attitude toward the elements in the state and local incentive packages will be one of flexibility. The Secretary will not insist upon any particular item of tax or regulatory relief, for example. A weakness of incentives in one area, such as tax relief, could be offset by greater strength in another area, such as regulatory relief. It should be remembered, however, that the incentive packages will be evaluated competitively against each other with primary emphasis on the overall creation of a free market environment through the removal of government burdens. Moreover, the Secretary will not be required to grant any particular number of Federal designations and could, therefore, reduce the number of designations in any year if there were an insufficient number of adequate applications.

It should also be noted that the Secretary will have the power to revoke Federal designation of a zone if the state or local government does not honor its commitment with respect to its promised package of incentives and contributions.

3. Rural Eligibility. In addition to urban communities, many rural areas would satisfy the eligibility criteria for Enterprise Zones. Almost 2,000 cities and counties would be eligible for Enterprise Zones, with approximately 1,500 of these being small cities under 50,000 in population. State and local governments could nominate zones in these areas and compete for Federal designation along with zones nominated in larger cities.

4. Number of Zones. Under the Administration's proposal, the Secretary of HUD will be authorized to designate up to 25 zones each year. The actual number designated will depend on the number and quality of the applications.

5. Duration of the Zones. Each Enterprise Zone will last for the period chosen by the nominating State and local governments. The Federal incentives will apply to a Federally-designated zone for this entire period, up to a maximum of 20 years plus a four year phaseout. During the phaseout period, the Federal tax reductions will be reduced by 25 percent each year.

6. HUD Administration. HUD will be the administering agency for the program and will be the lead agency in pursuing legislative adoption of the program. The Treasury Department will be responsible for the tax provisions of the bill and the IRS will administer these provisions.

### Federal Tax Incentives

1. The Administration's Enterprise Zone Tax Package. The following Federal tax incentives would apply within Federally-designated Enterprise Zones under the Administration's plan:

- (1) A special, additional, investment tax credit would be allowed for capital investments in an Enterprise Zone. For personal property, this credit would be 3 or 5 percent. For the construction or rehabilitation of commercial, industrial or rental housing structures within the zone, the credit would be 10 percent. Property eligible for the credit must be used in the zone for all of its depreciable life, or else a proportion of the credit will be subject to recapture.

- (2) Employers would be allowed a 10 percent nonrefundable tax credit for payroll paid to zone employees (qualified employees as defined below) in excess of payroll paid to zone employees in the year prior to designation of the zone, with the credit calculated against a current maximum of \$15,000 for each worker (2.5 times the FUTA wage base, which is currently \$6,000), thereby providing a maximum credit of \$1,500 per worker.
- (3) Employers would be allowed a nonrefundable tax credit for wages paid to zone employees (qualified employees as defined below) who were also disadvantaged individuals (as defined below) when hired. This credit would be in addition to the general 10 percent credit in subparagraph (2) above, but wages counted for purposes of calculating the credit would be reduced by the amount of any credit taken under subparagraph (2). The credit would be equal to 50 percent of eligible wages in each of the first three years of employment, declining by 10 percentage points in each year after that. The credit would apply only for disadvantaged workers hired after designation of the zone.
- (4) Zone employees (qualified employees as defined below) would be allowed a 5 percent nonrefundable income tax credit for taxable income earned in zone employment, with the credit applicable to the first \$9,000 in taxable income (1.5 times the current FUTA wage base of \$6,000), thereby providing a current maximum credit of \$450 per worker.
- (5) Capital gains taxes on the sale of zone property (qualified property as defined below) would be eliminated. The termination of an Enterprise Zone period will not terminate the eligibility of otherwise qualified property for this exemption, until the first sale or exchange of such property after such termination.
- (6) Industrial Development Bonds could continue to be issued to finance small businesses located within Enterprise Zones, even if the use of IDB's elsewhere is terminated.
- (7) Any Enterprise Zone firm would be allowed an operating loss carryover for the life of the zone in which it is located, or 15 years, whichever is longer. The credits under items (1), (2), and (3) above could also be carried over for the life of the zone in which the firm is located.
- (8) The Foreign Trade Zone Board would be instructed that, whenever possible, Foreign Trade Zones should be established within Enterprise Zones and applications of such zones to become Foreign Trade Zones should be expedited and given special consideration.
- (9) Definitions--
  - (a) For capital gains purposes, qualified property is:

- (i) any real or tangible personal property which is used predominantly by the taxpayer in an Enterprise Zone in the active conduct of a trade or business, and
- (ii) any interest in a corporation, partnership, or other entity if, for the three most recent taxable years of such entity ending before the date of the sale or exchange of the interest (or for such part of such period as the entity has been in existence or the zone has been designated), such entity:
  - (I) was engaged in the active conduct of a trade or business within an Enterprise Zone,
  - (II) derived at least 80 percent of its gross receipts from zone business, and
  - (III) had substantially all of its tangible units located in an Enterprise Zone,
- (b) A qualified employee is any employee who performs more than 50 percent of his services for a particular employer within an Enterprise Zone and for whom 90 percent of his services for that employer are directly related to zone activities.
- (c) A disadvantaged individual is:
  - (1) an AFDC recipient, or
  - (2) an SSI recipient, or
  - (3) a general assistance recipient, or
  - (4) a foster child receiving payments from the State or local government, or
  - (5) handicapped individuals, or
  - (6) a vocational rehabilitation referral, or
  - (7) an individual from a family with an income no higher than the amount for which the family would have qualified in AFDC plus food stamp benefits if it had applied for such benefits with no other income.
- (d) Ownership of rental property, whether residential, commercial or industrial, within an Enterprise Zone shall be treated as the active conduct of trade or business.
- (e) The treatment of property as qualified property for purposes of the capital gains provision shall not be terminated at the end of the period for which the Enterprise Zone in which the property

is located or used is in effect, but shall terminate after the first sale or exchange of such property occurring after such period.

2. Cost of the Tax Package. The Treasury Department estimates that the cost of a sample Enterprise Zone which includes 10,000 employees with this tax package would be \$12.4 million per year in terms of foregone tax revenue. The cost of 10 such Enterprise Zones in the first year of the program would, therefore, be \$124 million. The cost of 25 such Enterprise Zones in the first year would be \$310 million. The total cost of the program would increase commensurately in future years for increased numbers of zones and also by such increases in zone activities as may occur.

These estimates are based on the conservative assumption that little new economic activity will be created by the program that would not have occurred elsewhere. If the program is successful in its goal of stimulating such activity and employing unemployed resources, then this revenue loss will be significantly offset by the generation of new revenues and by reduced government expenditures due to the employment of individuals formerly receiving government aid. The cost of the program would, therefore, be even less.

3. The Investment Tax Credit (Item 1). This item provides an incentive for capital investment in Enterprise Zones. The 3 to 5 percent credits for three-year and other personal property, respectively, basically increases the current nationwide investment tax credit by 50 percent. To be eligible for the credit, the personal property must be used predominantly within the Enterprise Zone in a trade or business. This will prevent the taking of the credit for highly mobile capital with only superficial connections to the zones. The property must also be used within the zone for all of its depreciable life. This will help avoid abuses such as purchasing the personal property through a business within the zone for use outside the zone. Premature removal from the zone of this property will result in a tax assessment which will recapture a portion of the tax benefits due to the credit, based on the portion of the depreciable life of the property for which it was used in the zone.

The portion of the credit relating to rehabilitation and construction will encourage the development of commercial and industrial structures in the zone areas. Such structures will be sorely needed in most Enterprise Zones. This incentive will be useful in increasing the availability of commercial space to small businesses, most of which rent such space. The credit will apply to any expenditures for expansions, renovations or improvements of existing structures.

This portion of the credit will also encourage the construction of rental housing in Enterprise Zones. Needless to say, housing is another critical need in most areas likely to be designated as Enterprise Zones. This includes housing for all income classes. Applying the zone incentives to housing across the board would tend to integrate zone areas racially and socioeconomically, as well as leading to the creation of new commercial opportunities for zone businesses in serving and supplying the residents of this housing.

The credit will apply only to capital investments made in a zone after it is designated. Existing businesses in the zones will not receive any tax benefit for their past investments. These businesses will, however, be able to take the credit for any investments to replace worn out capital currently in use. If these businesses remain committed to the zones long enough to turn over their capital stock, they will enjoy the credit for their entire capital investment in the zones, just as a completely new business. Over time, therefore, existing businesses in the zones will receive a growing tax reduction due to the investment tax credit, commensurate with their continued commitment to the zones and eventually reaching the full tax reduction available to a new business.

4. The Employer Credit for Zone Wages (Item 2). The 10 percent credit to the employer for wages paid to qualified zone employees will encourage the creation of jobs in Enterprise Zones for workers of all types. It will attract labor-intensive business activities to the Enterprise Zone areas. With a cap of \$15,000 on wages to which the credit applies, the incentive is focused on jobs for low and median income workers.

This \$15,000 cap is expressed in terms of the FUTA wage base (2.5 times the current FUTA base of \$6,000). With this cap, the maximum credit an employer can receive per worker is \$1,500.

The credit is available to all employers for the qualified workers they employ within the zones, regardless of how many workers they employ elsewhere or what business activities they engage in outside of the zones. An international, multi-billion dollar corporation that employs one worker in an Enterprise Zone will receive the credit for the wages paid to that worker.

The credit does not apply, however, to the existing payroll of an existing business within a zone when it is designated. It would also not apply to a worker hired by such a firm to replace a former, pre-zone worker at the same wage. But it would apply to increases in wages paid to existing workers and wages paid to replacement workers above the total sum of wages paid to the former workers, all subject to the maximum annual wage cap per worker. Since wages tend to increase over time, this means that existing firms will receive some increasing tax reduction from this credit over time. The credit will also apply to wages paid by existing firms to net, additional workers, representing an increase in the firm's workforce, again subject to the annual maximum wage cap per worker.

This limitation on the applicability of the credit to existing businesses was imposed to avoid windfalls to such businesses already operating within the zone areas. It also substantially reduces the cost of the credit.

5. The Employer Credit for Disadvantaged Workers (Item 3). The special credit to the employer for wages paid to disadvantaged zone workers provides an additional incentive for the creation of jobs for these workers. Because of the availability of this credit, employers will be encouraged to establish basic job training programs to improve the productivity of these workers and make them more employable.

This credit is the strongest tax incentive ever provided for the hiring of disadvantaged workers. The 3-year duration and 4-year phaseout will provide the employer with enough time to undertake a long term training program addressed to the needs of the most disadvantaged workers. It will provide the employer with a payoff if he is successful in improving and maintaining the employability of the worker, since he can receive the credit for a number of years. The duration of this credit will also substantially limit any incentive to turn over disadvantaged employees in order to obtain the maximum credit. By the time the credit begins to decline, the employee's productive skills should have improved sufficiently to offset this decline.

The definition of disadvantaged workers for the purposes of this credit is focused on low-income and hard to employ individuals. Because this definition limits the applicability of this incentive to workers with low skills, and because the credit will last for only a limited number of years per worker, a cap on the wages to which it applies is unnecessary and would only be an administrative burden.

The credit will apply only to disadvantaged workers hired after designation of the zone in which they are employed. But these workers do not have to represent net, additional workers, or an increase in their employer's work force. The credit will apply even if they are merely replacement workers in a work force of constant size. If they are replacement workers, the credit will apply to the full wages paid, since these wages will not be eligible for the general 10 percent credit noted above. If they are net, new workers, the credit will apply to these wages. Then the wages eligible for the general payroll credit are reduced by the credit claim for the disadvantaged workers.

This credit will, therefore, not apply to the past payroll of an existing business in a zone. But if, for example, such a business replaces workers lost through attrition with disadvantaged workers, then it will receive an increased tax reduction from this credit. The credit will be available to all employers for the disadvantaged workers they employ within the zones, regardless of the number of workers or amount of business conducted elsewhere.

6. The Employee Tax Credit (Item 4). The tax credit for the employee will increase take-home pay to qualified employees who work in the zones. This would increase the returns to low income workers for accepting a job and giving up welfare or other assistance benefits, thereby helping them to break out of the incentive structure of "the poverty trap." Tax breaks for this purpose have been advanced by the NAACP.

Such a benefit will also be important in inducing more highly skilled workers to accept employment within the zones, which may initially be somewhat undesirable places to work. Concern over the inability to otherwise attract such workers to these areas might be a substantial impediment to the formation of new businesses within the zones.

With a cap of \$9,000 on wages to which the credit applies, this incentive is concentrated on lower income workers. This cap is equal to 1.5 times the FUTA wage base, which is currently \$6,000.

7. Capital Gains Tax Elimination. The elimination of capital gains taxes within the zones should stimulate investment in the zones by entrepreneurs and venture capitalists seeking to start and build up new businesses. It should attract new, small businesses to the zones with substantial growth potential. Fundamentally, this incentive will encourage capital improvements within the zone areas. This is necessary if these areas are to become desirable places to work and live and if jobs are to be created within them.

This tax treatment applies to any real or tangible personal property used in an Enterprise Zone in a trade or business. This includes such property utilized by existing businesses at the time a zone is designated. It does not include, however, idle property merely held for speculation, since it would not be used in a trade or business.

The capital gains elimination would also apply to ownership interests in Enterprise Zone firms. Entrepreneurs who start and build up new businesses would consequently be able to reap the full benefit of their labors when they sold out. Ownership of rental residential, commercial or industrial properties is treated as a trade or business for this purpose, allowing these properties to be sold without capital gains taxation. But the incentive does not apply to owner-occupied residential properties, and these properties could, therefore, still be subject to such taxation. This incentive does apply, however, to all existing Enterprise Zone ventures which otherwise meet the necessary criteria.

These special capital gains provisions would continue to apply after a designated zone lapses until the first time each item of otherwise qualified property was sold. This would assure investors that they will be able to receive the benefit of this incentive and will avoid a rush to sell zone property when the end of the zone period approaches.

8. Industrial Development Bonds (Item 6). The continued provision of Industrial Development Bonds for small businesses in Enterprise Zones, regardless of whether the availability of such bonds elsewhere is eliminated, will help these businesses to obtain the necessary start-up capital to begin their ventures. These bonds must be approved by a state or local government when issued. The interest paid to the lender on the bond is then exempt from Federal income tax.

The inability to obtain start-up capital is the major complaint of those attempting to start new, small businesses. The continued availability of IDBs in Enterprise Zones should substantially ameliorate this problem.

9. The Operating Loss Carryover (Item 7). The provision extending the operating loss carryover will also help new and particularly small businesses. The carryover allows a firm making losses in one year to deduct those losses in future, profitable years. Under the 1981 Economic Recovery Tax Act, the carryover was extended for all firms to 15 years. The Enterprise Zone provision will allow firms in zones to deduct their losses made within a zone at any time during the life of a zone. Since the maximum period for Federal participation

in a zone is 20 years, plus a four-year phase-out, this extends the carryover to up to 24 years. If a loss was incurred with less than 15 years remaining in the life of the zone, however, the normal 15 year carryover period would apply.

The credits available to an Enterprise Zone business could also be carried over during the life of the zone. If a zone firm has insufficient tax liability to take advantage of all of its zone credits in one year, it can deduct those credits against income tax liability in any future zone year.

New businesses generally suffer losses in their initial years, and it may be several more years before they have sufficient profits or tax liability against which to deduct these losses or their available tax credits. Extending the carryover period and allowing the zone credits to be carried over will, therefore, reduce the risk of starting a new business. This is particularly true for small businesses which may not have outside income against which to deduct their losses, as larger firms usually have.

10. Foreign Trade Zones (Item 9). The final element in the tax package is the mandate for the creation of Foreign Trade Zones within Enterprise Zones. The statutory authority to create Foreign Trade Zones has existed since 1933 and many are currently in existence. Within these zones, the imposition of all duties and tariffs is delayed until the imported goods leave the zones for the domestic U.S. market. If the goods are used to manufacture other goods, the duty is exacted only on the value of the imported goods once the manufactured goods enter the U.S. market. If the manufactured goods are re-exported from the zone, then the duty on the imported goods is never levied. Foreign Trade Zones are, therefore, excellent locations for warehousing imports or for manufacturing based on imported raw materials. Combining these incentives with the Enterprise Zone program will encourage the creation of such businesses within the zones.

11. The Overall Package. As a whole, the effect of the Federal tax package for most Enterprise Zone firms will be to eliminate 75 percent or more of the corporate income tax, eliminate entirely the capital gains tax, provide relief from tariffs and duties wherever Enterprise Zones are also Foreign Trade Zones, as well as to provide income tax relief for the qualified employees of such firms. These incentives will facilitate easier access to start-up capital.

Overall, this tax package is deliberately skewed to encourage the creation of jobs for low-income and disadvantaged workers and to stimulate the establishment of labor-intensive business activities within the zones. A powerful credit is provided for hiring disadvantaged individuals. The annual wage caps on the general credits for zone wages for both the employer and the employee focus these credits more strongly on lower-income workers. Because of the strength of these labor credits in contrast to the capital credits, the entire package favors the encouragement of labor-intensive activities in general.

The package contains benefits for businesses already existing in an Enterprise Zone when designated. The capital gains elimination applies completely to such businesses. The investment tax credit applies to replacement investments by such firms and the credit for disadvantaged workers would apply to the hiring of replacement workers by such firms, if such workers were disadvantaged. The credit to the employer for zone payroll would apply to

wage increases for existing workers for such firms as long as the salaries of these workers were below \$15,000 per year. The combined effect of these incentives is that an existing firm will receive an increasing tax reduction for its operations within an Enterprise Zone, as it displayed a continuing commitment to the zone, although the tax reduction would probably never be as great as it would be for an entirely new firm established after designation of the zone.

The main focus of the incentives is on the creation of new businesses or the expansion of existing ones. Businesses already in operation within an Enterprise Zone when designated would not receive credits for its past investments or for its established payroll expenses for previously hired employees.

### Federal Regulatory Relief

1. Importance of Regulatory Relief. In many ways, regulatory relief is the most promising of all the Enterprise Zone elements. Regulations impose enormous costs on businesses, discouraging economic activity and growth probably as much as taxes do. Regulatory relief, therefore, holds as much potential as tax relief for stimulating the revitalization of Enterprise Zone areas. Yet, removing these regulations where it is responsible to do so entails absolutely no monetary cost to the government, as does tax reduction. The case for boldness in regard to regulatory relief is, therefore, even greater than in regard to tax relief. Regulations should be relaxed or eliminated within the zones whenever they do not appear to be performing an important and necessary function.

In one significant respect regulatory relief is the obverse of tax relief--it should help small businesses more than large businesses. Large firms can generally absorb the costs of regulation more easily, by such means as spreading the costs imposed over more units of production, and are also better able to pass the imposed costs on to customers. Yet, small businesses do not avoid these costs by virtue of their marginal profitability, as is the case with many taxes. Regulatory relief is, therefore, particularly important for the stimulation of small businesses within Enterprise Zones.

2. The 1980 Regulatory Flexibility Act. The 1980 Regulatory Flexibility Act (see Appendix B) requires all Federal regulatory agencies to publish analyses of the economic impact on entities under its coverage of any proposed regulations and to discuss alternatives to those regulations. More significantly, the Act requires all Federal regulatory agencies to undertake a periodic review of all their regulations to determine whether they should be changed to minimize their economic impact on the entities under coverage of the Act.

This is a useful element to be included in the Enterprise Zone program. It will force agencies to focus on the impact of their regulations in Enterprise Zones and publicize this impact. But the Act does not appear to provide any authority for any substantive regulatory changes. It is not even clear that the Act empowers agencies to make different regulatory rules for the entities under the coverage of the Act. Something more is needed.

3. Regulatory Relief by Flexible Administrative Authority. Under the Administration proposal, Federal regulatory bodies (all agencies covered by the Administrative Procedures Act) would be given discretionary authority to relax or eliminate their regulatory requirements within Enterprise Zones, except those affecting civil rights, safety, and health, including environmental health, in accordance with standards promulgated by Congress, but only upon the request of the state and local governments.

To utilize this authority, the state and local governments governing each zone would initially ask Federal regulatory bodies to relax or eliminate particular regulations within the zone. The Federal bodies that promulgated the regulations would have the statutory power to grant such requests at their discretion. Congressionally mandated standards would dictate how the agencies were to use this discretion. The standards would include an instruction to each body to weigh the special job creation and economic revitalization purposes of the zones against other important aspects of the public welfare and to relax or eliminate each particular regulation within a zone when appropriate. A Federal regulatory body would have no authority to take any action without a prior request from both the state and local governments governing each zone.

In many instances, Federal regulations are issued by agencies based on broad, general standards provided by Congress. These standards dictate to each agency the factors to be considered in issuing their regulations, and place bounds on the maximum and minimum degrees of regulation. The special Enterprise Zone authority would broaden these standards, requiring each agency to weigh heavily the need to stimulate job creation and economic revitalization within Enterprise Zones. The authority would also empower these agencies to make special exceptions from their regulations for Enterprise Zones, and eliminate for such areas the minimum standard bounding the mandated regulated activity.

The special authority would also encompass regulations issued to interpret or carry out statutorily imposed requirements. While an agency would not be empowered to take actions contrary to the underlying statute, its discretion would be broadened to allow the agency to weigh the need to stimulate job creation and economic revitalization within the zone areas. The agency would also have the power to make special exceptions from its regulations for Enterprise Zones.

This special authority would expressly not apply, however, to any regulations relating to civil rights, equal employment, equal opportunity, or fair housing rights of any person in the United States. It would also expressly not cover any regulation whose relaxation is likely to harm the public safety or health, including environmental health.

The only other regulations which would not be affected by this authority are those specifically imposed and spelled out by statute. The minimum wage law, for example, would not be affected, since the statute expressly requires that a minimum of \$3.35 an hour be paid.

## State and Local Government Role

1. Importance of the State and Local Role. The contributions to each zone by the state and local governments will probably make the difference in whether a zone succeeds or fails. There is a great deal the state and local governments can do, consistent with the Enterprise Zone philosophy, to enhance the likely success of the zones. Enterprise Zones do not represent merely a Federal initiative, but an effort by all levels of government to remove from the zones their nonessential impediments to economic activity.

Businessmen in particular have emphasized the value of the possible contributions to the zones at the state and local levels. Tax relief at these levels is important, but regulatory relief at these levels has been even more heavily emphasized. Businessmen have even suggested that state and local regulatory relief is far more important than Federal regulatory relief. The business community has also sought relief from inadequate, monopolized, local public services.

Leadership in mobilizing the local community and private sector to participate in the program is another crucial element which can be provided only at the state and local levels. Such efforts cannot be successfully undertaken by officials in Washington unfamiliar with local conditions. These leadership efforts will in large part determine whether disadvantaged local residents will participate in the benefits of the program. They will also in large part determine whether the resources of the private sector will be as fully committed to the program as they could be.

2. Federal Flexibility. The initial importance of the state and local contributions is that they will determine what nominated zones will be Federally designated. It should be emphasized that the Federal posture towards these contributions will be highly flexible. No particular element of tax relief or regulatory relief, or any other possible contribution, will be required. Failure to include one element in a state and local package of contributions could be offset by greater strength in the other elements.

It should be recalled, however, that the state and local contribution packages will be competitively evaluated against each other. Widespread willingness to include a particular element will, therefore, naturally provide pressure for all applicants to include it, or to enhance their packages further to compensate for its absence.

3. State and Local Tax Relief. A major concern expressed by state and local officials is that the Enterprise Zone program will force them to forego tax revenues just when they are already facing tight budgets and insufficient revenues. But, as just noted, the program will not mandate any particular state and local tax reduction. Moreover, the fiscal ability of the state or local government to provide tax relief will be considered in the competition for Federal approval. It will be recognized that, say, Houston, will be better able to grant tax relief to its zone than, say, Detroit. This principle also implies that state governments will be expected to make greater efforts at tax relief than local governments since the zone will represent a much smaller portion of the state's taxing jurisdiction than of the local government's.

It should also be recognized that the theory behind the program suggests that it may well be a net revenue generator for state and local governments rather than a revenue drain. Since there is little economic activity now in the zone areas, even if substantial tax relief is granted, little revenue will be lost. If the program is successful in generating new jobs and business activity within the zone areas, substantial additional revenues will be generated which could conceivably more than offset this loss.

A net revenue gain would be particularly likely at the local level. If local tax reductions for the zone were modest, the community would receive all the additional revenue generated by the strong Federal and state incentives, and its own non-tax incentives, at little cost. Stable property tax rates would in fact virtually assure a net revenue gain for the community. This is because property values within the zone are likely to rise due to the special incentives which apply there and the economic improvements which are likely to take place.

There are many possible elements of tax relief which state and local governments could contribute to the zones. Both governments could enact income tax relief, analogous to the Federal income tax relief, with the same likely effects. Relief from sales taxes could also be allowed within the zones. This would encourage the development of discount retail centers within the zone areas. Further economic development would stem from the large shopping crowds providing demand for other businesses, such as restaurants and recreation.

Another possible element is property tax relief. Such relief would encourage owners of land within the zones to develop it for industrial, commercial or residential uses, since the tax applied to the increase in value due to such development would not be as great. Property tax reduction should also help to preserve existing zone housing, since the squeeze of property taxes, rent controls and other urban costs has led many landlords to abandon buildings in inner city areas, resulting in burned out slums.

Numerous other taxes peculiar to various state and local jurisdictions could also be relaxed within the zones.

4. State and Local Regulation. As noted earlier, businessmen have emphasized the value of state and local regulatory relief to be contributed to the zones. Moreover, such regulatory relief will cost the state and local governments nothing. Such relief should, therefore, be a central element of any state and local incentive package. There is an almost endless array of state and local regulations which could be relaxed or eliminated within Enterprise Zones. A few are discussed below.

Zoning Laws. One web of entangling regulations which stifle economic activity stems from zoning laws. By restricting the uses to which property can be put, these laws often prevent businesses and other property owners from devoting their property to its most productive use. Many potential entrepreneurs may be prevented from going into business altogether because of restrictions on property they own or on other available property. The result is not only reduced property values, but inefficiency and misallocation of resources.

Moreover, within an Enterprise Zone, where substantial new but unknown economic activity is expected, the area should be opened up to a broad range of potential activities. Prejudging these activities by restrictive zoning regulations might forestall the potential boom altogether.

It is recognized, however, that zoning laws often are undertaken to preserve property values by prohibiting nuisance activities, for example. Also, zoning may be the best means for preserving housing areas within Enterprise Zones. The relaxation of zoning restrictions, rather than their elimination, may, therefore, be the preferred course of action by local officials.

Occupational Licensure Laws. These laws prohibit individuals from engaging in certain occupations unless they have a license from the government. These occupations include not only highly technical professions, such as law and medicine, but also a broad spectrum of other endeavors.

While such restrictions on technical and critical services may seem justified, these restrictions are often extended unnecessarily into other areas merely to restrict competition. Reducing the supply of providers in this way increases costs to consumers and unfairly raises the returns to established individuals in the field. It restricts the supply of jobs and reduces employment opportunities. These laws are particularly harsh on the poor and unemployed, who are thereby prevented from entering into many established occupations. In an Enterprise Zone, which is supposed to represent an area of unfettered opportunity, such laws should be revised or abolished where they impose unnecessary burdens on certain occupations.

Usury Laws. A similar restriction is state and local limits on the interest which can be charged on loans. To the extent that such controls hold interest below market rates, they cause a shortage of credit by increasing the demand and reducing the supply. This shortage, however, may be felt only by the riskiest borrowers who would be charged the highest rates. An interest ceiling that kept the maximum rates below those that would otherwise be charged to these borrowers would in effect foreclose them from the credit market altogether. This can only make such borrowers worse off since they simply lose the opportunity to decide whether they want to borrow at the available rates.

Many of these riskiest borrowers may be small entrepreneurs. The effect of interest rate controls, then, is to prevent these entrepreneurs from obtaining the necessary capital to start their businesses. The elimination of usury laws within Enterprise Zones would increase the supply of capital to such zones and better enable entrepreneurs to obtain start-up capital.

Price Controls. All forms of price controls have sharply negative effects on economic activity and efficiency. Such controls inevitably cause shortages by increasing demand while reducing supply. Controls on the price of the product or service of a potential new business will surely tend to discourage that business from ever starting in the first place. These controls should, therefore, also be primary targets for relaxation within the zones.

Permit Requirements. Entrepreneurs attempting to start new businesses are often faced with a myriad of permit requirements which must be satisfied before the business can begin. In addition to the sheer burden of complying with these requirements, businessmen are often faced with substantial delays because of poor administration of permit issuance. In some cases, denial of a permit will unnecessarily force a business establishment out of existence.

One way of addressing these problems would be to establish a one-stop shopping office for permits for Enterprise Zone businesses. Another alternative is to eliminate most or all of these requirements. An entrepreneur in an Enterprise Zone should not have to get the government's permission to start a business.

Central Planning Authorities. Urban communities are often under the jurisdiction of state and local boards, commissions, authorities or other entities which have the power to issue various economic development plans or planning regulations. These regulations restrict the range of economic activities which can occur in these areas and foreclose business opportunities. They run counter to the effort to create an open-market environment, which underlies the Enterprise Zone program. Removing the Enterprise Zone area from the jurisdiction of these entities would be a valuable state and local contribution to the program.

Building Codes. Yet another web of local regulations stem from building codes. These regulations, though well-intended, often impose heavy, unnecessary costs on businesses and developers, thwarting economic activity. The regulations in many cases are poorly suited to the particular circumstances of businesses or developers, who could achieve the same result through a cheaper, alternative method. The codes are also often outdated, requiring the use of outmoded and unnecessarily costly methods. Featherbedding requirements are also often included in the codes, again unnecessarily increasing costs.

Purging the codes of these drawbacks would be a beneficial contribution to Enterprise Zones. Another alternative is to impose liability on builders for defects in their buildings and require them to have insurance. Since the insurance company would have to pay for any defects, it would not issue insurance for unsafe buildings. Yet competition would force it to maintain the flexibility to adapt to the conditions of each builder and avoid the imposition of unnecessary costs.

Other Regulations. To reach many of the other state and local regulations which could be relaxed within Enterprise Zones, a general deregulatory authority could be created analogous to the Federal deregulatory authority. Each state and local regulatory body could be given discretionary authority to relax or eliminate its regulations within Enterprise Zones, to be exercised in accordance with legislatively mandated standards. These standards would instruct each body to weigh the need for job creation and economic revitalization within the zone areas against other important public policy considerations, and relax or eliminate its regulations within the zones when appropriate. Regulations relating to such areas as public health, safety and civil rights should be exempted for this authority.

This would allow state and local governments to expand the regulatory relief within the zones over time, avoiding the need to catalogue every potential regulation to be affected from the beginning. It would also allow these governments to experiment with different combinations of regulatory relief within different zones, and to change these combinations over time.

5. Improved Local Services. One of the most important deterrents to economic activity in distressed urban areas is inadequate or overly expensive municipal services. The inadequacy of these services may increase the cost of doing business in these areas, as businesses must do without or pay extra for supplemental services. Increased costs may also result from unnecessarily high taxes to pay for inefficient services. Inadequacy of these services may further reduce the returns to businesses in the area by reducing their appeal to consumers. The inadequacy of some services, such as crime protection, may make it simply impossible to do business in a potential Enterprise Zone area at all. In such cases, it is essential that some action be taken to remedy the problem if an Enterprise Zone is to be approved for the area.

Inadequate community services could be improved by the more traditional means of increasing the resources devoted to their provision. Increasing police patrols, providing additional funding for infrastructure maintenance, purchasing modern equipment, etc. could help to ameliorate the problem. The devotion of such increased resources to Enterprise Zones would be a favorable factor in the Federal designation competition.

But even greater improvements are likely to result from shifting reliance for the provision of these services to private sector firms and institutions, where feasible. One means of doing so is for local governments to contract with private firms to provide services formerly provided by municipal agencies. The contracts could be granted on a competitive basis to the private firm or institution which offered the best price and quality of service. A contract could cover the entire Enterprise Zone area, or only certain neighborhoods within the zone. The contracts could come up for renewal periodically so that the chosen contractor would be subject to continuing competitive pressures. This means of providing services is known as "contracting out," or "privatization."

A major advantage of this approach is that government monopoly is replaced by market competition. Consequently, incentives will operate to keep costs down and quality up. A government monopoly need not worry about costs or quality. If its customers think costs are too high or quality insufficient, they still must continue to pay through taxes and cannot take their business elsewhere. A private firm competing for contracts, by contrast, must keep costs as low as possible and quality as high as possible to attract the needed customers to stay in business. Such firms must innovate and maintain efficient practices. As a result, through private contracting incentives are utilized to achieve better overall service.

Moreover, private firms can often achieve economies of specialization and scale not available to local governments. Competition also lessens the opportunity for corruption which often pervades entrenched government monopolies.

Relying on private contractors will also allow local governments to evaluate their services more objectively and decide where funds could best be used, free from the political pressures of established bureaucracies.

Contracting with private firms to provide community services is more widespread than is commonly recognized. The Advisory Commission on Intergovernmental Regulations (ACIR) has tabulated 66 services which are provided by contracting out with private firms. Experience indicates that such private contracting does indeed reduce cost and improve services. Communities have found that they can often reduce costs by 20 to 40 percent and improve services at the same time through this means.

Another means of utilizing alternative, private-sector providers is through associations or organizations of neighborhood residents, businesses or merchants. These associations could contract directly with private firms for the provision of services to their neighborhood areas, or they could provide such services themselves through self-help efforts. Once the provision of a service had been satisfactorily arranged through these means, the community could then cease serving the neighborhood area. To make such options feasible, however, two problems must be overcome.

The first is the problem of double payment. Residents of zones could hardly be expected to pay for services on their own if they have to continue to pay for such services through local taxes. Consequently, those who provide such services to themselves through neighborhood organizations should be allowed tax credits equal to the cost to the government of otherwise providing these services. For example, if a neighborhood association could save the local government \$100,000 a year by doing their own refuse collection, the members of the association should receive a tax credit equal to this amount to divide among themselves. If the associations can actually provide the services more cheaply, then the neighborhood residents could make a profit and would have a strong incentive to undertake the provision of these services.

In some neighborhoods, the residents may not pay enough in local taxes to take full advantage of the tax credits. To solve this problem, the tax credits could be made transferable to any individuals inside or outside of the Enterprise Zone who made donations to neighborhood organizations for use in providing these services. If the zone residents could actually provide the services through these organizations at lower costs, then they could split some of the profits with the donor to give him an incentive to make the donation.

The second problem that must be solved is the free-rider problem. Some services normally provided by municipalities could not be denied to those who would not pay. Park maintenance and crime control are two examples. In these situations, at least some individuals may well find it in their own best interest to refuse to pay their share of the cost of the service, since they will continue to enjoy it regardless of whether they pay. The cost of making up for these nonpayers is likely to make the service too expensive for remaining members of the association. It should be noted, however, that this would not

be a problem for many typical municipal services for which nonpayers could be excluded from enjoying the benefits, such as garbage collection or transportation or education.

For those services where this would be a problem, the neighborhood association could solve it by inducing all neighborhood property owners to attach provisions to their deeds providing for automatic membership in the association for whomever owns the property. This would make all subject to the assessments of the association while allowing all to enjoy the benefits. Since benefits are likely to be substantial due to the cost savings from alternative provision of such services, it should not be too difficult to induce virtually everyone in the neighborhood to join.

Once again, typical municipal services are performed by current neighborhood associations to a much wider extent than is popularly understood. Associations of homeowners most often perform these services in suburban developments. But there are also many examples of block associations of inner city residents performing such services. The Neighborhood Enterprise Association discussed in the next section would be an excellent vehicle for the provision of these services.

Local associations of residents are particularly well-suited to perform many municipal services on a self-help basis. Examples include day-care centers, care for the elderly, welfare services and crime-watch patrols. Because local residents have a more intimate knowledge of their neighbors' needs, circumstances and abilities, these self-help efforts are particularly likely to be effective. Whether provided on a self-help or contracting out basis, however, utilizing alternative, private-sector, service providers through neighborhood associations should otherwise generally result in the same benefits as direct contracting out by the municipality as discussed above.

Still another method of utilizing private sector service providers is to grant tax credits directly to businesses who voluntarily undertake to provide certain services on a localized basis. These tax credits would have to be subject to case-by-case government approval to ensure that the services were useful and adequately provided. This mechanism would be particularly well-suited to the provision of infrastructure. A large corporation might rehabilitate the roads, or the water and sewage pipes, or the subway stations, in a rundown area, if it could obtain tax credits to reimburse it for doing so. The benefits to the local operations of the business would be the incentive for undertaking these activities. Similarly, a commercial or residential developer might provide such infrastructure to enhance its development.

The lack of adequate infrastructure in many distressed urban areas is another strong deterrent to economic activity. Through these tax credits, efficient, private producers can be induced to provide much of this infrastructure at a lower cost than the government. To the extent that the municipality was going to build this infrastructure anyway, therefore, it could actually save money by relying on these tax credits.

A further means of developing private sector alternatives is to utilize user fees to finance current municipal services. Such fees would be charged to the beneficiaries of each service and should be sufficient to cover the cost of providing the service. Utilizing these fees would allow consumers to compare the cost of these services with private alternatives. If consumers could avoid the fees if they forego the services, then they could take advantage of superior private sector alternatives.

This would introduce market competition and incentives into the situation, with all the benefits noted above. Private firms would be induced to compete with the municipal agencies. Where they could successfully provide a superior service, consumers would choose them to replace the agency. This system would also provide an entirely new set of incentives to the municipal agencies themselves. They would now have an incentive to improve their efficiency and quality of service in order to maintain their existence.

Another privatization mechanism is known as "load shedding." This would involve simply stopping the provision of a service to an area where a private firm could be induced to take over the responsibility. Such load shedding would directly turn the service over to the private market. Ideally, where an area's taxes had previously been used to finance the service, a commensurate tax reduction should be allowed within the area so that businesses and residents would not have an increase in expenses to finance the service. In some instances, however, a service may have been so inadequate that users had already begun utilizing private alternatives. In these instances, eliminating the service will simply save the municipality money.

A final mechanism for increasing private sector reliance is to encourage voluntary actions by private organizations, which is discussed in the next section.

All of these mechanisms are presented here simply as examples of actions local governments can take to improve services in Enterprise Zones. None of these actions is required for participation in the program. But these are actions which are consistent with the overall Enterprise Zone philosophy of removing government burdens and relying on the private sector, and which can substantially improve the attractiveness of an Enterprise Zone area. Credit will therefore be given in the competitive Federal approval process to state and local governments which will initiate experiments with some of these mechanisms in Enterprise Zones.

6. Local Community Involvement and Neighborhood Enterprise Associations. Another possible element of the contributions by state and local governments to the zones is for these governments to encourage participation in the program by neighborhood organizations and other private sector institutions. These would include churches, Community Development Corporations (CDCs), neighborhood associations, civic organizations, fraternal societies, recreational groups, country clubs, business associations, local political party units, unions and individual business firms, among others. There are many important roles in the program these institutions can serve.

One of the most important is to serve as conduits for participation by zone residents in the economic success of the zone areas. Churches and neighborhood organizations can, for example, create talent banks of available

employees in the zones. Firms planning to start up in the zones could then inquire at these institutions for potential employees. Business associations or CDCs could provide job referral services, listing available jobs for zone residents seeking work. Business associations or individual firms could be induced to commit to providing a certain number of jobs for zone residents. Several of these community institutions could together establish basic job-training programs for those without fundamental skills. Voluntary contributions of time, space and other minor items could make the effort rather inexpensive. The more intimate knowledge these local groups would have of the needs and abilities of zone residents would greatly facilitate the successful administration of such a program.

This function could be further served by using these organizations to establish mechanisms for equity ownership by the zone residents in economic enterprises within the zones. An ideal institution for this role is the Neighborhood Enterprise Association to be discussed below.

One such mechanism would be for the state and local governments to transfer abandoned, unused properties to organizations of zone residents. These properties could then be leased to entrepreneurs who wished to establish businesses on them. As part of the rental price, the organization members could even require a business to provide certain social services to the neighborhood, such as daycare centers, job training programs, or perhaps even jobs in the business for the residents themselves.

Another mechanism is to grant a tax credit to individuals who sell property to organizations composed of zone residents. The credit could exempt the sale from state and local taxes or be equal to a percentage of the property's value and deductible from the seller's other taxes. The credit would induce property owners to sell to such organizations at below market rates. These properties could then be used as above to obtain an ownership income for zone residents.

Still another mechanism is to provide for homesteading or shopsteading in zone areas. This would allow individuals to take over abandoned properties for nominal fees. If an individual resided on the property or operated a business there for a certain period of time, the individual would eventually become the outright owner of the property.

A final mechanism would be to encourage firms setting up in Enterprise Zones to offer opportunities for zone employees to gain ownership interests in the firm. Provisions already exist in the Internal Revenue Code to provide employers with an incentive to do this.

One result of these equity participation mechanisms would be to increase the income and/or assets of zone residents, who generally will be poor and disadvantaged individuals. But at least as important, these mechanisms would channel some of the benefits of the economic development of the zone to the zone residents themselves. This would be a key factor in preventing the zone program from simply displacing zone residents as the zone's economy improved.

With their ownership interests, the zone residents would see their personal economic situations improve along with the improvement in the economic situation of the zone. These new interests would create a renewed commitment by the zone residents to the zone area.

A second role for these organizations is to serve as focal points for volunteer, self-help efforts by the zone residents and others. Neighborhood associations, for example, may establish citizen safety patrols, which would report suspicious or criminal activity to the police. Experience with these efforts indicates that they are often quite successful in reducing crime in a neighborhood area.

Other organizations could establish special recreational or educational activities for zone youths. These might include the creation of little league teams, scout groups and other, similar activities. Further self-help efforts might focus on the rehabilitation of local parks or buildings, or the collection of trash and garbage in the city streets. Business firms and individual business associations might be induced to donate funds to support local self-help efforts such as these.

The establishment of an Enterprise Zone should draw the entire community's attention to the zone area. With local leadership, this attention can be used to stimulate volunteer efforts to aid the zone area, beyond what could usually be expected to occur. Moreover, with ownership interests and new job opportunities, zone residents should have a reinvigorated interest in efforts to improve the local community.

Still another role for these organizations is to rebuild community social structures and value systems. These organizations can express the local outrage over criminal and drug-related activity. They can apply social pressures to discourage such activity. These institutions can also organize the local social events that build a sense of community.

Finally, of course, these private sector institutions can serve as the organizations to take over the private provision of public services, where feasible and desirable, as described earlier.

As noted above, Neighborhood Enterprise Associations (NEAs), described below, would be ideal institutions for the performance of these functions. State and local governments could pass the legislation necessary to establish these institutions as part of their contributions to the zones. These institutions are described here because they were designed to be compatible with the Enterprise Zone program and could be expected to perform their assigned roles particularly well.

These Associations would be incorporated entities with zone residents as the shareholders. There would be one Association corporation for each neighborhood area. To start such an Association, residents would first define on their own the neighborhood area to which the Association would apply. The incorporating residents would also have to draft a charter and by-laws suitable for doing business in corporate form. The charter would authorize the corporation only to do business within an Enterprise Zone. Both the charter and by-laws

would have to be amendable by 51% of voting stockholders. The incorporating residents would then have to notify all other residents of the neighborhood area to which the corporation applies and offer them free shareholder status.

All voting age residents who could prove at the time of incorporation that they had been residents of the corporation's neighborhood for at least one year would receive one equal share of Class A stock. Those who had been residents for less than a year would receive one equal share of Class B stock. New residents who moved into the area would also be entitled to one equal share of Class B stock, as would non-adult residents upon attaining voting age. The corporation would be under a continuing obligation to notify and offer these individuals their entitled stock interests.

Holders of Class A stock would each be entitled one vote in running the affairs of the corporation, including the distribution of profits. Holders of Class B stock would not be eligible to vote but would be entitled to attend and speak at shareholder meetings. Neither Class A stock or Class B stock would be transferable and each would revert back to the corporation upon the death of the holder. Class B stock, however, would mature into Class A stock after seven years, if its owner had maintained continuous residence in the neighborhood for this entire time.

After the neighborhood residents had been notified and the stock had been distributed, the first shareholder's meeting for the corporation would be called. The voting stockholders at this meeting would then elect a board of directors from among their number. This board would then hire a professional chief executive officer to run the affairs of the corporation.

The corporation would not enjoy the advantages of NEA status until approved by a state agency, such as a Corporation Commission. The agency would grant this status only if the corporation complied with the procedures and major design features noted above. If the corporation failed to continue to fulfill the requirements, the agency would have the power to revoke NEA status.

State and local governments could grant these corporate NEAs several advantages to aid the zone residents in getting their business enterprises off the ground. The corporation could be made exempt from state and local taxes, in addition to qualifying for the Federal Enterprise Zone tax incentives. The state and local governments could also transfer or lease at nominal fees all unused government property in the neighborhood area of the corporation. A tax credit could also be granted to owners of real property in the neighborhood area of the corporation who sold their property to the corporation.

The NEAs could also be encouraged to take over the supply of some municipal services in the corporation's neighborhood. Transferable, local tax credits equal to the amount the local government saves could then be granted to the resident members of the association. Tax credits could also be granted for donations to the corporation to aid volunteer, self-help activities.

This institution would provide a vehicle for all of the important roles noted above. The vehicle would also be in complete control of the zone residents. Local residents of the zones would be able to exert greater control over their local communities. For once, they would have the resources and the incentives to shape their communities into the kind of livable neighborhoods they desire.

State and local governments will, of course, not be required to include any of these elements in their Enterprise Zone programs. But a widespread consensus is developing in the business community, in the academic arena, and among those active in the field that such efforts are vital to successful inner city redevelopment. Consequently, the inclusion of at least some of these elements in a state and local zone contribution package will substantially aid the applicants in the competitive Federal designation process.

7. Other Factors. As noted in the Program Structure section, a number of other factors will also be important in the competitive Federal approval process. This section will discuss those factors in more detail.

One of these factors will be state and local incentives and contributions for the zones not discussed above. In particular, this would include the more traditional urban revitalization tools such as job training grants, infrastructure financing, loan programs, funding to reduce business insurance costs and other government expenditure efforts. In some cases, some of these more traditional tools may be necessary to revive an Enterprise Zone area, particularly in regard to infrastructure. In other cases, the state and/or local government may simply prefer these more traditional tools and should receive credit for the effort in the Federal competition. Greater credit will be given the more these expenditure programs are targeted solely to the Enterprise Zone area. Little or no credit will be given for existing government expenditure programs which apply relatively uniformly state or community wide.

Another factor will be the extent to which effective and enforceable guarantees are provided concerning the promised state and local incentives and contributions. The most promising such guarantee would be to provide zone businesses, employees, or residents the right to sue in court (1) for enforcement of the promised incentives and contributions, and (2) for reimbursement for damages caused by any failure to maintain those incentives and contributions. For some contributions, such as tax and regulatory relief, the continuation of the incentive and any damages caused by its weakening or elimination would be easy to prove. In other instances, involving, for example, commitments to improve municipally provided services, such proof will be more difficult. In the latter situation, other guarantee mechanisms may be necessary.

A further element will be the level of poverty and economic distress in the proposed Enterprise Zone. Those zones in proximity to concentrations of disadvantaged workers or long term unemployed individuals would also have an advantage in the Federal competition. This is to help ensure the availability of zone opportunities to these individuals. This advantage would be greater the greater the likelihood that disadvantaged or long term unemployed zone residents would have employment opportunities in the zone. Efforts by State and local governments to improve this likelihood would therefore also be helpful in the Federal competition.

Addition factors determining which zones will be Federally approved will relate to the size and location of the zone. Zones will on average be expected to be 1 to 2 square miles. But larger zones of as much as 5 square miles would be acceptable in the larger communities, though not too many zones this size would be approved. In smaller communities, zones of even one-half square mile might be suitable. The Secretary of HUD will have the power to deny approval to zones which are excessively large. The zones should also not be located in areas of heavy, existing, business activity, particularly including established plants of large companies. The purpose of the program is not to prop up existing companies, but to stimulate new ones. Allowing the zones to be located in areas of heavy, existing, business activity would substantially increase the cost of the program. The zones should also not be located in heavily residential areas with little room for the growth of business activity or even for new housing. The location of a zone in such an area could lead to substantial displacement of existing residents to other parts of the city. Gerrymandering a zone boundary to include existing businesses or stable, heavily residential areas will be viewed negatively in the Federal competition process. Gerrymandering a zone boundary to exclude such activities will, on the other hand, be encouraged.

Still another element would be the degree to which private entities have made commitments to provide additional resources and contributions to the zones. This would include commitments from these entities, ranging from business associations to community groups, to provide services and funds to the Enterprise Zone area on a voluntary basis. It would also include legitimate commitments by investors to start or expand new business activity in the zone. An application for Federal designation which could show a large number of investors ready to invest in the zone upon designation will have a natural advantage.

The Secretary of HUD will also have the power to consider additional factors which are consistent with the intent of the Enterprise Zone program and which are necessary to minimize the unnecessary loss of tax revenues to the Federal Government.

## APPENDIX A - UDAG Eligibility Criteria

1. Eligibility under the UDAG program is determined by the following six criteria:
  - (a) percent of people at or below the poverty level
  - (b) percent of housing constructed before 1940
  - (c) growth of per capita income
  - (d) population growth
  - (e) growth in retail and manufacturing employment
  - (f) unemployment
2. For a city over 50,000 in population to be eligible, it must be worse than specified minimum standards on three of the six criteria. However, if the city has less than half the minimum standard for poverty, (Item (a)), then it must meet four of the remaining five criteria.
3. For a city between 25,000 and 50,000 to be eligible, it must be worse than minimum standards on three of the first five criteria. However, if the city is more than twice as bad on the minimum standard under Item (a), then it only needs to meet one of the other five criteria. If the poverty rate (Item (a)) is less than half the minimum standard, then the city must meet all four of the other criteria. If the city is more than twice as bad as the minimum standard under Item (b), then it only needs to in addition satisfy Item (a).
4. For a city under 25,000 to be eligible, the city must be worse than the minimum standards on three of the first four criteria. However, if the city is more than twice as bad on the minimum standard under Item (a), then it only needs to meet one of the other four criteria. If the city is more than twice as bad as the minimum standard under Item (b), then it only needs to in addition satisfy Item (a).
5. In addition, to be eligible a city must also
  - (i) have demonstrated performance in providing housing for low and moderate income people and
  - (ii) have demonstrated results in creating equal opportunity in housing and employment
6. Cities which cannot meet all these criteria can still qualify part of their area for the program as a "pocket of poverty" based on similar criteria.
7. There are 10,000 small cities (under 50,000) and 350 large cities (over 50,000) which qualify at least in part as UDAG-eligible.

APPENDIX B

PUBLIC LAW 96-354—SEPT. 19, 1980

REGULATORY FLEXIBILITY ACT

Public Law 96-354  
96th Congress

An Act

Sept. 19, 1980  
[S. 299]

To amend title 5, United States Code, to improve Federal rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small entities, and for other purposes.

Regulatory  
Flexibility Act.  
5 USC 601 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Flexibility Act".*

FINDINGS AND PURPOSES

5 USC 601 note.

SEC. 2. (a) The Congress finds and declares that—

(1) when adopting regulations to protect the health, safety and economic welfare of the Nation, Federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;

(2) laws and regulations designed for application to large scale entities have been applied uniformly to small businesses, small organizations, and small governmental jurisdictions even though the problems that gave rise to government action may not have been caused by those smaller entities;

(3) uniform Federal regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands including legal, accounting and consulting costs upon small businesses, small organizations, and small governmental jurisdictions with limited resources;

(4) the failure to recognize differences in the scale and resources of regulated entities has in numerous instances adversely affected competition in the marketplace, discouraged innovation and restricted improvements in productivity;

(5) unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes;

(6) the practice of treating all regulated businesses, organizations, and governmental jurisdictions as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental and economic welfare legislation;

(7) alternative regulatory approaches which do not conflict with the stated objectives of applicable statutes may be available which minimize the significant economic impact of rules on small businesses, small organizations, and small governmental jurisdictions;

(8) the process by which Federal regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, small organizations, and small governmental jurisdictions to examine the impact of proposed and existing rules on such entities, and to review the continued need for existing rules.

(b) It is the purpose of this Act to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.

#### ANALYSIS OF REGULATORY FUNCTIONS

SEC. 3. (a) Title 5, United States Code, is amended by adding immediately after chapter 5 the following new chapter:

#### “CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

- “Sec. 601. Definitions.
- “Sec. 602. Regulatory agenda.
- “Sec. 603. Initial regulatory flexibility analysis.
- “Sec. 604. Final regulatory flexibility analysis.
- “Sec. 605. Avoidance of duplicative or unnecessary analyses.
- “Sec. 606. Effect on other law.
- “Sec. 607. Preparation of analyses.
- “Sec. 608. Procedure for waiver or delay of completion.
- “Sec. 609. Procedures for gathering comments.
- “Sec. 610. Periodic review of rules.
- “Sec. 611. Judicial review.
- “Sec. 612. Reports and intervention rights.

#### “§ 601. Definitions

5 USC 601.

“For purposes of this chapter—

“(1) the term ‘agency’ means an agency as defined in section 551(1) of this title;

5 USC 551.

“(2) the term ‘rule’ means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term ‘rule’ does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances;

5 USC 553.

“(3) the term ‘small business’ has the same meaning as the term ‘small business concern’ under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

15 USC 632.

“(4) the term ‘small organization’ means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

“(5) the term ‘small governmental jurisdiction’ means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the Federal Register; and

“(6) the term ‘small entity’ shall have the same meaning as the terms ‘small business’, ‘small organization’ and ‘small governmental jurisdiction’ defined in paragraphs (3), (4) and (5) of this section.

5 USC 602.

Publication in  
Federal  
Register.

**“§ 602. Regulatory agenda**

“(a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain—

“(1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

“(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking, and

“(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Transmittal to  
SBA.

“(b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.

Notice.

“(c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.

“(d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda.

5 USC 603.

Public comment.  
5 USC 553.

**“§ 603. Initial regulatory flexibility analysis**

“(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities. The initial regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration.

Publication in  
Federal  
Register.  
Transmittal to  
SBA.

“(b) Each initial regulatory flexibility analysis required under this section shall contain—

“(1) a description of the reasons why action by the agency is being considered;

"(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

"(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

"(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

"(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

"(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as—

"(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

"(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

"(3) the use of performance rather than design standards; and

"(4) an exemption from coverage of the rule, or any part thereof, for such small entities.

**"§ 604. Final regulatory flexibility analysis**

5 USC 604.

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

5 USC 553.

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

"(3) a description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.

"(b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public and shall publish in the Federal Register at the time of publication of the final rule under section 553 of this title a statement describing how the public may obtain such copies.

Public  
availability;  
publication in  
Federal  
Register.  
5 USC 553.

**"§ 605. Avoidance of duplicative or unnecessary analyses**

5 USC 605.

"(a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.

- Certification, publication in Federal Register and transmittal to SBA.
- “**(b)** Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a succinct statement explaining the reasons for such certification, and provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.
- “**(c)** In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, 604 and 610 of this title.
- 5 USC 606.      **“§ 606. Effect on other law**
- “The requirements of sections 603 and 604 of this title do not alter in any manner standards otherwise applicable by law to agency action.
- 5 USC 607.      **“§ 607. Preparation of analyses**
- “In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable.
- 5 USC 608.      **“§ 608. Procedure for waiver or delay of completion**
- Publication in Federal Register.
- “**(a)** An agency head may waive or delay the completion of some or all of the requirements of section 603 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 603 of this title impracticable.
- Publication in Federal Register.
- “**(b)** Except as provided in section 605(b), an agency head may not waive the requirements of section 604 of this title. An agency head may delay the completion of the requirements of section 604 of this title for a period of not more than one hundred and eighty days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency.
- 5 USC 609.      **“§ 609. Procedures for gathering comments**
- “When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

"(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;

"(2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;

"(3) the direct notification of interested small entities;

"(4) the conduct of open conferences or public hearings concerning the rule for small entities; and

"(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.

#### "§ 610. Periodic review of rules

5 USC 610.

"(a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date and for the review of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.

Plan, publication in Federal Register.

"(b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors—

Consideration factors.

"(1) the continued need for the rule;

"(2) the nature of complaints or comments received concerning the rule from the public;

"(3) the complexity of the rule;

"(4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

"(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

"(c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

Publication in Federal Register.

#### "§ 611. Judicial review

5 USC 611.

"(a) Except as otherwise provided in subsection (b), any determination by an agency concerning the applicability of any of the provi-

sions of this chapter to any action of the agency shall not be subject to judicial review.

“(b) Any regulatory flexibility analysis prepared under sections 603 and 604 of this title and the compliance or noncompliance of the agency with the provisions of this chapter shall not be subject to judicial review. When an action for judicial review of a rule is instituted, any regulatory flexibility analysis for such rule shall constitute part of the whole record of agency action in connection with the review.

“(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.

Submittal to  
President and  
congressional  
committees.  
5 USC 612.

**“§ 612. Reports and intervention rights**

“(a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary of the Senate and House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives.

“(b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his views with respect to the effect of the rule on small entities.

“(c) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).”

**EFFECTIVE DATE**

5 USC 601 note.

**SEC. 4.** The provisions of this Act shall take effect January 1, 1981, except that the requirements of sections 603 and 604 of title 5, United States Code (as added by section 3 of this Act) shall apply only to rules for which a notice of proposed rulemaking is issued on or after January 1, 1981.

Approved September 19, 1980.

**LEGISLATIVE HISTORY:**

SENATE REPORT No. 96-378 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Aug. 6, considered and passed Senate.

Sept. 8, 9, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 38:

Sept. 19, Presidential statement.

SENIOR STAFF MEETING ACTION ITEMS (2-17-82)

ITEMS	ACTION
1. <u>Schedule</u> : Photo opportunity is with Belgian P.M.; Treasury is forwarding briefing paper on currency; question of press briefing after meeting to be discussed.	Speakes Clark
2. <u>CIA Documents on OPEC</u> : President does not agree with request for document release, and has sent letter to Rosenthal. Clark to discuss with Casey question of whether documents must remain classified due to "possible harm to national security."	Clark Duberstein
3. <u>CBI</u> : Comments on speech draft to be distributed to Bakshian and working group. Legislative Strategy group to discuss matter at 10 a.m. Duberstein to talk with Congressman Murtha re his post-visit statement that El Salvador merits further assistance.	Darman Duberstein
4. <u>Press Conference</u> : Set for EOB 450; Rosebush to check again on whether use of East Room is possible, though.	Rosebush
5. <u>NYC Loan Guarantee</u> : Material from Koch has been received; Williamson to discuss matter with JAB.	Williamson
6. <u>Economic Figures</u> : No change in housing starts, but permits up 6%. Industrial production down 3% in January, but weather was a factor.	
7. <u>Housing</u> : Secretary Pierce met with President; decision is that something needs to be done for the industry. It was noted that housing industry leads us into and out of recessions. Cabinet Council working group formed to study options on expedited basis.	Fuller
8. <u>Stockman</u> : Testifying today on economic forecast; will lay out optimistic and pessimistic scenarios as well as Administration forecast. Harper, JAB and EM to discuss further.	Harper
9. <u>Budget Savings</u> : GAO is looking at our report on program savings with view to question our figures. OMB has discovered one instance of double-counting, but no others.	Harper
10. <u>Labor</u> : Kirkland statement re "Jonestown economics" noted; VP responded strongly, and consensus is that we should continue to respond similarly. Rollins to handle matter of Labor Council formation at RNC.	Gergen Rollins
11. <u>First Lady</u> : Response to recent trip has been excellent.	
12. <u>Tax Exemption</u> : Mississippi case (in Supreme Court) discussed; per AG, case is not directly related to school tax exemption issue, but Fuller to follow up.	Fuller
Briefing paper on issue also needed prior to President's press conference.	Fuller

# WHITE HOUSE STAFFING MEMORANDUM

DATE: 3/18/82 ACTION/CONCURRENCE/COMMENT DUE BY: NOON TOMORROW, 3/19

SUBJECT: DRAFT PRESIDENTIAL MESSAGE ON ENTERPRISE ZONES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JAMES	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CLARK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WILLIAMSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DOLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	WEIDENBAUM	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Would you please forward comments to Ben Elliott with a copy to us.  
Thank you.

Richard G. Darman  
Assistant to the President  
(x2702)

Response:

(Elliott/AB)  
March 18, 1982  
3:00 p.m.

ENTERPRISE ZONE MESSAGE OF THE PRESIDENT  
MARCH 23, 1982

To the Congress of the United States:

I am transmitting to the Congress today legislation entitled, "The Enterprise Zone Act of 1982." This legislation authorizes the establishment of an Enterprise Zone program, which is an experimental, free market program for dealing with the severe problems of our Nation's economically depressed areas.

In my January 26 State of the Union message, I indicated that we would propose legislation for a new effort to revive the decaying areas of America's inner cities and rural towns. We have now completed work on this new effort and it is embodied in the proposed "Enterprise Zone Act." Therefore, I am requesting today that the bill be referred to the appropriate committees and I urge its early enactment.

The Concept of Enterprise Zones

The Enterprise Zone concept is based on utilizing the market to solve urban problems, relying primarily on private sector institutions. The idea is to create a wide-open, free market environment in economically depressed areas by reducing taxes, regulations and other government burdens on economic activity. The removal of these burdens will create and expand economic opportunity within the zone areas, allowing private sector firms

and entrepreneurs to create jobs -- particularly for disadvantaged workers -- and expand economic activity.

The intent of the program is not to encourage existing outside activity to relocate into the zones, but rather to stimulate new economic activity within the zones that would not otherwise have occurred at all.

Enterprise Zones then are based on an entirely fresh approach for promoting economic growth in the inner cities. The old approach relied on heavy government subsidies and central planning. A prime example was the Model Cities Program of the 1960's, which concentrated government programs, subsidies and regulations in specific, depressed urban areas. The Enterprise Zone approach would remove government barriers liberating individuals to create, produce and earn their own wages and profits. In its basic thrust, Enterprise Zones are the direct opposite of the Model Cities Program of the 1960's.

Enterprise Zones will not require appropriations at the Federal level, except for necessary administrative expenses. States and cities will still have the option of allocating discretionary Federal funds for their Enterprise Zones if they desire, or to appropriate additional funds of their own for such zones.

Enterprise Zones also represent more than a Federal initiative to remove government burdens and provide other contributions to the zone areas. State and local contributions

to these zones will be critically important, and probably determine whether individual zones succeed or fail. In the spirit of our new policy of Federalism, State and local governments will have broad flexibility to develop the contributions to their zones most suitable to local conditions and preferences.

#### The Elements of Enterprise Zones

The Enterprise Zone program includes four basic elements:

First, tax reduction at the Federal, State and local levels to lessen the most obvious and direct burden on economic activity.

Second, regulatory relief at the Federal, State and local levels to reduce burdens which can be equally costly.

Third, new efforts to improve local services, including experimentation with private alternatives to provide those services. Eliminating inefficiencies of monopolized government services and increasing reliance on the private sector are key parts of the overall Enterprise Zone theme. Experience has shown that these efforts can save taxpayers substantial sums while significantly improving services at the same time.

Finally, involvement in the program by private, local, neighborhood organizations. These organizations can contribute much to the improvement of Enterprise Zone neighborhoods. They can also help to ensure that local residents participate in the economic success of the zones.

By combining all these elements we will create the right environment to revive our Nation's economically depressed areas.

The Structure of the Enterprise Zone Program

Title I of the Act describes the program structure and how the zones will be established.

The initial designation and establishment of each zone will depend on local leadership and initiative. To obtain the Federal incentives for Enterprise Zones, State and local governments must first nominate the zones within the eligible areas as defined by the Federal legislation.

These areas will include all UDAG eligible areas which have recently experienced significant unemployment, poverty or population loss. Based on these criteria, there will be more than 2,000 cities with Enterprise Zone eligible areas.

The Enterprise Zone program is, thus, a potential source of economic assistance to distressed areas of all types, shapes and sizes, all across the country. Rural areas as well as large urban areas will be eligible to become Enterprise Zones.

After State and local nomination, these governments will apply to the Secretary of HUD for Federal designation to allow the Federal incentives to apply to their zones.

Before such an application can be made, a zone nomination must be approved by both the governing State and local jurisdictions. Both such jurisdictions must also provide incentives and contributions.

Federal designation of nominated zones will not be automatic or routine. Rather, the Secretary will evaluate the various applications on a competitive basis, choosing the best applications for the limited number of Federal designations available each year. The key criterion in this competitive process will be the quality and strength of the State and local incentives to be contributed to the zones, consistent with the overall Enterprise Zone theme of creating an open market environment by removing government burdens. Other important factors will also be considered.

The posture of the Federal Government toward the elements in the State and local contribution packages will be highly flexible. For example, the Secretary of HUD will not insist upon any particular item of tax or regulatory relief. A weakness of incentives in one area, such as tax relief, could be offset by greater strength in another area, such as regulatory relief. It should be remembered, however, that the incentive packages will be competitively evaluated against each other.

The Secretary of HUD will be authorized to designate up to 25 zones in each of three years for the application of the Federal incentives. The actual numbers designated will depend on the number and quality of the applications.

Each Enterprise Zone will last for the period chosen by the nominating State and local governments. The Federal incentives

will apply to an approved zone for this entire period, up to a maximum of 20 years plus a 4-year phaseout period.

The Federal Incentives of the Enterprise Zone Program

--The Federal Tax Incentives of the Enterprise Zone Program

Title II of the Act describes the Federal tax incentives to apply within Enterprise Zones, which include:

- °a 5 percent investment tax credit for capital investments in personal property in an Enterprise Zone;
- °a 10 percent tax credit for the construction or rehabilitation of commercial, industrial or rental housing structures within a zone;
- °a 10 percent tax credit to employers for payroll paid to zone employees in excess of payroll paid to such employees in the year prior to zone designation;
- °a special, strengthened tax credit for wages paid to zone employees who were disadvantaged individuals when hired, with the credit equal to 50 percent in each of the first 3 years of employment, and declining by 10 percentage points in each year after that;
- °a 5 percent tax credit to zone employees for wages earned in zone employment;
- °the elimination of capital gains taxes within Enterprise Zones;

°the designation of suitable Enterprise Zone areas as Foreign Trade Zones, providing relief from tariffs and import duties;

°the continued availability of Industrial Development Bonds to small business in Enterprise Zones, even if the availability of such bonds is terminated elsewhere; and,

°the extension of the operating loss carryover period for Enterprise Zone businesses, and permission for Enterprise Zone tax credits to be carried over for this period as well.

The Federal tax reductions applying to Enterprise Zones will be substantial. They will include reductions for employers, employees, entrepreneurs, investors, and lenders. They will include incentives for capital investment, for hiring workers, particularly disadvantaged workers, for increasing work effort, for providing loans to Enterprise Zone businesses and for starting and building up new businesses. They will include reductions in corporate income taxes, individual income taxes, capital gains taxes and tariffs. Within these zones, the most comprehensive and dramatic program of Federal tax reduction ever attempted in contemporary America will be provided.

The Treasury Department estimates that with this tax package the designation of 10 to 25 zones in the first year of the program will result in \$124 - \$310 million in lost revenues for that year. The cost of the program will increase commensurately in future years with the designation of additional zones.

--Federal Regulatory Relief

Title III of the Act describes the Federal regulatory relief to apply within Enterprise Zones. Under these provisions, State and local governments will be authorized to request relief for their approved zones from any Federal regulation not specifically imposed and spelled out by statute. Federal regulatory bodies will be authorized to weigh these requests under Congressionally mandated standards, and to relax these regulations when it is in the public interest to do so, given the goals of the Enterprise Zone program.

This special authority would expressly not apply, however, to any regulations designed to protect any person or group against discrimination because of race, color, religion, sex or marital status, national origin, age or handicap. It would also expressly not cover any regulation whose relaxation would endanger the public safety or health, including environmental health. The minimum wage law would not be covered by this authority because it is specifically imposed and spelled out by statute.

It should be emphasized that there will be no authority for any Federal regulatory relief within an Enterprise Zone without a request for such relief from both the State and local governments governing the zone.

The Role of State and Local Governments

While these Federal incentives are substantial, strong State and local contributions to the zones will be necessary for the program to be successful.

These contributions can be from each of the four basic categories noted earlier: tax relief; regulatory relief; improved local services; and private sector; neighborhood organization involvement. More traditional urban redevelopment efforts, such as job training or infrastructure grants, can also be contributed to the zone.

Consistent with the Administration's policy of Federalism, the Federal Government will not dictate to State and local governments what they must contribute to the zones. The program is designed for creative and innovative experiments by State and local governments within the zone areas. The program retains the flexibility for these governments to tailor their contributions to suit local needs and preferences.

The State and local contributions to the zones need not be costly. Regulatory relief, service improvements through privatization, and private sector involvement all entail no budgetary cost.

Even the cost of State and local tax relief should be modest because of the weak economic activity currently existing in potential Enterprise Zone areas. If the program is successful in stimulating new economic activity, these losses will be substantially offset by increased revenues from the new activity, and reduced expenditures due to newly-employed individuals who formerly received government aid. The program could even be a net revenue generator, particularly in urban areas.

The legislation we advance today is based on the pathbreaking work of many Members from both sides of the aisle who offered Enterprise Zone bills in prior sessions of Congress. We commend these efforts and anticipate that these innovative individuals will work for early, bi-partisan passage of this legislation.

More than government expenditures and subsidies, residents of economically depressed areas need opportunities. This is the focus of the Enterprise Zone program. The program will identify and remove government barriers to entrepreneurs who can create jobs and economic growth. It will spark the latent talents and abilities already in existence in our Nation's most depressed areas. This bold, new concept deserves to be given a chance to work. As I said in my State of the Union Address, some will say our mission is to save free enterprise, but, I say that with your help, we must free enterprise so that together we can save America.