

BILL ANALYSIS

Senate Research Center

S.B. 275
By: Nelson
Government Organization
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Enrolled

DIGEST AND PURPOSE

Currently, the Texas Department of Economic Development (department) has three primary missions: marketing Texas as a premier business location and tourist destination; providing financial, location, and export assistance to Texas businesses and communities; and serving as a central source of economic development information. However, the department is under Sunset review for 2003, and the Sunset Commission found that the lack of a direct link to the governor's office limits effective coordination and administration of the state's economic development efforts. S.B. 275 abolishes the department and transfers its primary economic development functions to an economic development office within the office of the governor. This bill also sets forth the structure and provisions of the Texas Economic Development Bank and its related offices, boards, and development programs.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the governing board of the Texas Department of Economic Development is transferred to the executive director of the Texas Economic Development Office in SECTION 1.08 (Section 481.005, Government Code), SECTION 1.15 (Section 481.012, Government Code), SECTION 1.28 (Section 481.075, Government Code), and SECTION 1.42 (Section 481.174, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Economic Development is transferred to the Texas Economic Development Office in SECTION 1.17 (Section 481.021, Government Code) and SECTION 1.66 (Government Code) of this bill.

Rulemaking authority previously granted to the permit office of the Texas Department of Economic Development is transferred to the permit office of the Texas Economic Development Office in SECTION 1.33 (Section 481.123, Government Code) and SECTION 1.34 (Section 481.124, Government Code) of this bill.

Rulemaking authority previously granted to the policy board of the Texas Department of Economic Development is transferred to the executive director of the Texas Economic Development Office in SECTION 1.44 (Section 481.193, Government Code) and SECTION 1.55 (Section 481.406, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas Economic Development Office in SECTION 2.01 (Section 489.002, Government Code) and SECTION 4.01 (Section 16.06, Agriculture Code) of this bill.

Rulemaking authority is expressly granted to the Product Development and Small Business Incubator Board in SECTION 2.02 (Sections 489.210, 489.213 Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ABOLITION OF TEXAS DEPARTMENT OF ECONOMIC DEVELOPMENT; TRANSFER OF CERTAIN FUNCTIONS TO TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE

SECTION 1.01. Amends the heading to Chapter 481, Government Code, to read as follows:

CHAPTER 481. TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE

SECTION 1.02. Amends Section 481.001, Government Code, by adding Subdivisions (5), (6), and (7) to define “bank,” “industry cluster,” and “office.”

SECTION 1.03. Amends Section 481.002, Government Code, as follows:

Sec. 481.002. New heading: OFFICE. Renames the Texas Department of Economic Development (TDED) as the Texas Economic Development and Tourism Office (office) and provides that it is an office within the office of the governor, rather than an agency of the state.

SECTION 1.04. Amends Section 481.003, Government Code, as follows:

Sec. 481.003. SUNSET PROVISION. Provides that the office is subject to Chapter 325 (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2015, rather than 2003.

SECTION 1.05. Amends Section 481.0042, Government Code, by amending Subsections (a), (b), (c), and (e) and adding Subsection (f), as follows:

(a) Prohibits a person from being the executive director or an employee of the office employed in a “bona fide executive, administrative, or professional capacity,” as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if the person qualifies under certain factors.

(b) Prohibits a person from being the executive director or an employee of the office if the person's spouse is in a certain group.

(c) Defines a “trade association.”

(e) Prohibits a person from being the executive director or an employee of the office if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has an interest in a contract with the office or a profession related to the operation of the office.

(f) Prohibits a person from acting as the general counsel to the office if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the office.

SECTION 1.06. Amends Subchapter A, Chapter 481, Government Code, by adding Section 481.0045, as follows:

Sec. 481.0045. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Requires the office to develop and implement a policy to encourage the use of certain procedures.

(b) Requires the office's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the office to designate a trained person to perform certain tasks.

SECTION 1.07. Amends the heading to Section 481.005, Government Code, to read as follows:

Sec. 481.005. EXECUTIVE DIRECTOR; DUTIES.

SECTION 1.08. Amends Sections 481.005(a), (c), and (d), Government Code, as follows:

- (a) Requires the governor, rather than governing board, to appoint an executive director of the office, rather than department, who serves at the pleasure of the governor, rather than governing board.
- (c) Requires the executive director to manage the affairs of the office under the direction of the governor.
- (d) Requires the executive director to direct the activities of the office and, in performing that duty, to establish policy, adopt rules, evaluate the implementation of new legislation that affects the office's duties, review and comment on the office's budget, prepare an annual report of the office's activities, conduct investigations and studies, and develop long-range plans for the future goals and needs of the office.

SECTION 1.09. Amends Subchapter A, Chapter 481, Government Code, by adding Section 481.066, as follows:

Sec. 481.066. AEROSPACE AND AVIATION OFFICE. (a) Requires the office to establish and maintain an aerospace and aviation office.

- (b) Authorizes the office to hire a director of the aerospace and aviation office and staff as necessary to perform the duties of the aerospace and aviation office under this section.
- (c) Requires the aerospace and aviation office to encourage economic development in this state by fostering the growth and development of aerospace and aviation industries in Texas.
- (d) Requires the aerospace and aviation office to perform certain functions.
- (e) Requires the governor to appoint an aerospace and aviation advisory committee consisting of seven qualified members to assist in the state's economic development efforts to recruit and retain aerospace and aviation jobs and investment. Requires the committee to advise the governor on the recruitment and retention of aerospace and aviation jobs and investment. Prohibits members of the committee from receiving compensation for serving on the committee.

SECTION 1.10. Amends Subchapter A, Chapter 481, Government Code, by adding Section 481.0067, as follows:

Sec. 481.0067. SMALL BUSINESS ADVOCATE. (a) Requires the executive director of the office to designate an individual as the small business advocate.

- (b) Requires a person, to be eligible to serve as the small business advocate, to have demonstrated a strong commitment to and involvement in small business efforts.
- (c) Sets forth the required duties of the small business advocate.

SECTION 1.11. Amends Subchapter A, Chapter 481, Government Code, by adding Section 481.0069, as follows:

Sec. 481.0069. SPACEPORT TRUST FUND. (a) Defines "reusable launch vehicle" and "spaceport."

- (b) Provides that the spaceport trust fund is created as a trust fund outside the

treasury with the comptroller and requires the spaceport trust fund to be administered by the office under this section and rules adopted by the office.

(c) Sets forth the makeup of the spaceport trust fund.

(d) Prohibits money in the spaceport trust fund from being spent unless the office certifies certain prerequisites to the comptroller.

(e) Authorizes money in the spaceport trust fund to be used only to pay expenditures for the development of infrastructure necessary or useful for establishing a spaceport. Authorizes the office to contract with a development corporation for spaceport facilities for the infrastructure development.

(f) Authorizes the office to invest, reinvest, and direct the investment of any available money in the spaceport trust fund. Authorizes money in the fund to be invested in the manner that state funds may be invested under Section 404.024 (Authorized Investments).

SECTION 1.12. Amends Section 481.008, Government Code, as follows:

Sec. 481.008. AUDIT. (a) Provides that the financial transactions of the office are subject to audit by certain entities.

(b) Requires the state auditor to inform the executive director when a financial audit of the office is not included in the audit plan for the state for a fiscal year. Requires the executive director to ensure that the office, rather than department, is audited under Subsection (a)(2) during those fiscal years.

SECTION 1.13. Section 481.010, Government Code, by amending Subsections (a), (b), (e), and (f), and adding Subsection (i), as follows:

(a) Requires the equal employment opportunity officer and the internal auditor of office of the governor to serve the same functions for the office as they serve for the office of the governor. Makes conforming changes.

(b) Requires the executive director or the executive director's designee to provide to office employees, as often as necessary, information regarding their qualifications for employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

(e) Makes a conforming change.

(f) Makes conforming changes.

(i) Requires the executive director or the executive director's designee to provide to office employees information and training on the benefits and methods of participation in the State Employee Incentive Program.

SECTION 1.14 Amends Section 481.011, Government Code, to make a conforming change.

SECTION 1.15. Amends Section 481.012, Government Code, as follows:

Sec. 481.012. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) Makes conforming changes. Requires the office to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to complaint investigation and resolution.

(b) Makes conforming changes. Requires the complaint information file to include certain information.

(c) Makes conforming changes.

(d) Makes conforming changes.

(e) Requires the executive director by rule to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the office for the purpose of directing complaints to the office.

SECTION 1.16. Amends the heading to Subchapter B, Chapter 481, Government Code, to read as follows:

SUBCHAPTER B. GENERAL POWERS AND DUTIES OF OFFICE

SECTION 1.17. Amends Section 481.021, Government Code, as follows:

Sec. 481.021. New heading: **GENERAL POWERS OF OFFICE**. (a) Sets forth the authorized powers of the office. Makes conforming and nonsubstantive changes.

(b) Makes a conforming change.

(c) Makes conforming changes.

SECTION 1.18. Amends Section 481.022, Government Code, as follows:

Sec. 481.022. New heading: **GENERAL DUTIES OF OFFICE**. Requires the office to perform certain tasks, including establishing a statewide strategy to address economic growth and quality of life issues, a component of which is based on the identification and development of industry clusters.

SECTION 1.19. Amends Section 481.023(a), Government Code, to make a conforming change.

SECTION 1.20. Amends Sections 481.024(a), (e), and (f), Government Code, as follows:

(a) Makes conforming changes. Provides that the governor or the governor's designee and the executive director serve as nonvoting, ex officio members of the board.

(e) Makes a conforming change.

(f) Makes a nonsubstantive change.

SECTION 1.21. Amends Section 481.025, Government Code, as follows:

Sec. 481.025. **EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY PROGRAM**. Requires the Texas Economic Development Bank (TEDB), to cooperate with appropriate federal and local agencies as necessary to administer the grant program. Makes conforming changes.

SECTION 1.22. Amends Subchapter B, Chapter 481, Government Code, by adding Section 481.026, as follows:

Sec. 481.026. **TECHNOLOGICAL SOLUTIONS**. Requires the office to develop and implement a policy that requires the executive director and the staff of the office to research and propose appropriate technological solutions to improve the ability of the office to perform its mission. Requires the technological solutions to include measures to ensure that the public is able to easily find information about the office through the Internet and that persons who have a reason to use the office's services are able to use the Internet to interact with the office and to access any service that can be provided effectively through the Internet. Requires the policy to also ensure that the proposed

technological solutions are cost-effective and developed through the office's planning processes.

SECTION 1.23. Amends Sections 481.027(a)-(e), Government Code, as follows:

- (a) Makes conforming changes.
- (b) Requires the foreign offices to be accessible to Texas-based institutions of higher education and their nonprofit affiliates for the purposes of fostering Texas science, technology, and research development, international trade and investment, and cultural exchange. Makes a conforming change.
- (c) Makes a conforming change.
- (d) Makes conforming changes.
- (e) Makes conforming changes.

SECTION 1.24. Amends Section 481.029, Government Code, to make a conforming change.

SECTION 1.25. Amends Subchapter B, Chapter 481, Government Code, by adding Sections 481.0295 and 481.0296, as follows:

Sec. 481.0295. IDENTIFICATION OF INDUSTRY CLUSTERS. (a) Requires the office to work with industry associations and organizations and key state agencies to identify regional and statewide industry clusters.

- (b) Authorizes the activities of the office in identifying industry clusters to include certain acts.
- (c) Requires the office to identify an industry cluster as a targeted sector if the office determines that the development of the industry cluster is a high priority.
- (d) Requires the office to work with targeted sectors, private sector organizations, key state agencies, local governments, local economic development organizations, and higher education and training institutions to develop strategies to strengthen the competitiveness of industry clusters. Requires the strategies to be designed to meet certain goals.
- (e) Authorizes the activities of the office to assist the development of a targeted sector to include certain acts.
- (f) Requires the office, on a continuing basis as determined by the office, to evaluate certain factors.
- (g) Requires the office to use information gathered in each region for which the office identifies industry clusters to meet certain goals.

Sec. 481.0296. ADVANCED TECHNOLOGY INDUSTRIES. (a) Requires the office to coordinate state efforts to attract, develop, or retain technology industries in this state in certain sectors, including certain industries.

- (b) Requires the office to recommend to the governor actions to promote economic development in the area of advanced technology, to identify and assess specific economic development opportunities, and to engage in outreach to advanced technology industries, including a joint venture created under the National Cooperative Research and Production Act of 1993 (15 U.S.C. Section 4301 et seq.), as amended, that is exempt from federal taxation as an organization described by Section 501(c)(6), Internal Revenue Code of 1986, as amended.

SECTION 1.26. Amends Section 481.043, Government Code, to make a conforming change.

SECTION 1.27. Amends Section 481.047, Government Code, to make a conforming change.

SECTION 1.28. Amends Section 481.0725, Government Code, as follows:

Sec. 481.0725. GENERAL POWERS AND DUTIES. Deletes a certain required office duty.

SECTION 1.29. Amends Section 481.073(c), Government Code, to make conforming changes.

SECTION 1.30. Amends Section 481.075, Government Code, as follows:

Sec. 481.075. PROGRAM RULES. (a) Makes conforming changes. Deletes the provision authorizing the governing board to delegate approval authority to the executive board.

(b) Makes a conforming change.

SECTION 1.31. Amends Section 481.121(2), Government Code, to define “permit office.”

SECTION 1.32. Amends Section 481.122, Government Code, as follows:

Sec. 481.122. CREATION. Provides that the business permit office is an office within the Texas Economic Development and Tourism Office (office).

SECTION 1.33. Amends Section 481.123, Government Code, as follows:

Sec. 481.123. DUTIES. Requires the permit office to perform certain tasks.

SECTION 1.34. Amends Sections 481.124(a), (b), (c), (d), (f), and (h), Government Code, to make conforming changes.

SECTION 1.35. Amends Sections 481.125(a), (b), (d), and (e), Government Code, to make conforming changes.

SECTION 1.36. Amends Section 481.126, Government Code, to make conforming changes.

SECTION 1.37. Amends Sections 481.127(a), (c), and (d), Government Code, to make conforming changes.

SECTION 1.38. Amends Section 481.128, Government Code, to make a conforming change.

SECTION 1.39. Amends Section 481.129, Government Code, to make conforming changes.

SECTION 1.40. Amends Sections 481.167(a), (d), and (e), Government Code, to make conforming changes.

SECTION 1.41. Amends Section 481.172, Government Code, as amended by Chapters 1041 and 1275, Acts of the 75th Legislature, Regular Session, 1997, as follows:

Sec. 481.172. DUTIES. (a) Requires the office, as the primary state governmental entity responsible for out-of-state tourism marketing and promotion efforts, to perform certain acts.

(b) Requires a memorandum of understanding entered into under Subsection (a) (8) to provide that the office may perform certain acts.

(c) Authorizes the promotion of the sports industry and related industries under

Subsection (a)(10) to include the establishment by the governor of a Texas Sports Commission composed of volunteers who are knowledgeable about or active in amateur sports.

(d) Provides that this section does not affect the authority of the State Preservation Board to conduct activities or make expenditures related to tourism or to promote the Bob Bullock Texas State History Museum.

SECTION 1.42. Amends Section 481.174, Government Code, as follows:

Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS. (a) Makes a conforming change.

(b) Makes a conforming change.

(c) Makes a conforming change.

SECTION 1.43. Amends Section 481.191, Government Code, by amending Subdivision (2) and adding Subdivision (4-a), as follows:

(2) Redefines "eligible borrower."

(4-a) Defines "medium-sized business."

SECTION 1.44. Amends Sections 481.193(a), (b), (d), (e), (f), (h), and (i), Government Code, as follows:

(a) - (e) Make conforming changes.

(f) Requires the executive director, after reviewing each linked deposit loan application to approve or deny the application, rather than recommend to the comptroller the acceptance or rejection of the application.

(h) Provides that the eligible lending institution and the state are represented by TEDB, rather than the comptroller and TDED. Sets forth the required content of the deposit agreement.

(i) Requires the comptroller, if a lending institution holding linked deposits ceases to be a state depository, to withdraw the linked deposits at the direction of TEDB.

SECTION 1.45. Reenacts Section 481.193(g), Government Code, as amended by Chapters 891, 1162, and 1423, Acts of the 75th Legislature, Regular Session, and amends it, as follows:

(g) Requires TEDB, after the executive director's approval, rather than the comptroller's acceptance, of the application and after the lending institution originates a loan to an eligible borrower, to authorize the comptroller to place a linked deposit with the applicable, rather than eligible, lending institution for the period of the loan, subject to Subsections (h) and (i). Provides that TEDB, rather than the comptroller, is not required to maintain the deposit with the lending institution if the loan is extended, renewed, or renegotiated unless TEDB approves, rather than the comptroller accepts, a new linked deposit loan application under this section for the loan as modified. Requires, rather than authorizes, the comptroller, subject to the limitation described by Section 481.197, to place, at the direction of TEDB, a time deposit at an interest rate described by Section 481.192 and authorizes the comptroller to modify the interest rate during the period of the loan, notwithstanding any order of the State Depository Board to the contrary.

SECTION 1.46. Amends Section 481.194(a), Government Code, to make a conforming change.

SECTION 1.47. Amends Section 481.198, Government Code, to make conforming changes.

SECTION 1.48. Amends Subchapter N, Chapter 481, Government Code, by adding Section 481.199, as follows:

Sec. 481.199. REPORTS; AUDITS. (a) Requires the office to submit to the comptroller a quarterly report regarding the linked deposit program.

(b) Provides that the financial transactions of a linked deposit are subject to audit by the state auditor as provided by Chapter 321 (State Auditor).

SECTION 1.49. Amends Section 481.211, Government Code, to make conforming changes.

SECTION 1.50. Amends Section 481.212, Government Code, to make conforming changes.

SECTION 1.51. Amends Section 481.401(9), Government Code, to redefine “reserve account.”

SECTION 1.52. Amends Sections 481.402(b) and (c), Government Code, as follows:

(b) Deletes investment earnings and fees charged under this subchapter from the list of revenue required to be deposited in the fund.

(c) Makes a conforming change.

SECTION 1.53. Amends Section 481.404, Government Code, as follows:

Sec. 481.404. New heading: POWERS OF BANK IN ADMINISTERING CAPITAL ACCESS FUND. Makes conforming changes.

SECTION 1.54. Amends Sections 481.405(a)-(d), Government Code, to make conforming changes.

SECTION 1.55. Amends Section 481.406(a), Government Code, to make a conforming change.

SECTION 1.56. Amends Sections 481.407(a), (b), and (d), Government Code, as follows:

(a) Makes a conforming change.

(b) Deletes the refinancing of existing loans not originally enrolled under this subchapter from the list for which a loan is not eligible to be enrolled under this subchapter.

(d) Authorizes a capital access loan to be sold on the secondary market with no recourse to TEDB or to the loan loss reserve correspondent to the loan and other conditions as maybe determined by TEDB. Makes a conforming change.

SECTION 1.57. Amends Section 481.408, Government Code, by amending Subsections (a), (c), and (d) and adding Subsection (e), as follows.

(a) Makes conforming changes.

(c) Requires the financial institution, for each capital access loan made by a financial institution, to certify to TEDB, within the period prescribed by TEDB, that the institution has made a capital access loan, the amount the institution has deposited in the reserve account, including the amount of fees received from the borrower, and, if applicable, that the borrower is financing an enterprise project or is located in or financing a project, activity, or enterprise in an area designated as an enterprise zone under Chapter 2303 (Enterprise Zones). Makes conforming changes.

(d) Requires TEDB, on receipt of a certification made under Subsection (c) and subject to Section 481.409, to deposit certain amounts in the institution's reserve account for each

capital access loan made by the institution. Makes conforming and nonsubstantive changes.

(e) Requires a participating financial institution to obtain approval from TEDB to withdraw funds from the reserve account. Makes a conforming change.

SECTION 1.58. Amends Section 481.409, Government Code, to make conforming changes.

SECTION 1.59. Amends Sections 481.410(b)-(d), Government Code, as follows:

(b) and (c) Make conforming changes.

(d) Includes the situation when the financial institution fails to submit a report or other document requested by TDEB within the time or in the manner prescribed, in the list of cases which require TDEB to withdraw from the institution's reserve account the total amount in the account and any interest earned on the account and deposit the amount in the fund. Makes conforming and nonsubstantive changes.

SECTION 1.60. Amends Section 481.411, Government Code, to make conforming changes.

SECTION 1.61. Amends Section 481.412(a), Government Code, to make a conforming change.

SECTION 1.62. Amends Section 481.414, Government Code, to make a conforming change.

SECTION 1.63. Amends the heading to Section 502.271, Transportation Code, to read as follows:

Sec. 502.271. TEXAS AEROSPACE AND AVIATION LICENSE PLATES.

SECTION 1.64. Amends Sections 502.271(a), (b), and (d), Transportation Code, as follows:

(a) and (b) Make conforming changes.

(d) Requires the Texas Department of Transportation (TxDOT), Of each fee collected under this section, to deposit \$25 under this section in, rather than to the credit of, the general revenue fund to the credit of the Texas Economic Development and Tourism Office account, which may be used only to support the activities of the aerospace and aviation office established by the Texas Economic Development and Tourism Office, and \$5 to the credit of the state highway fund.

SECTION 1.65. (a) Provides that the Texas Department of Economic Development (TDED) is abolished and the offices of the members of the governing board of the department serving on the effective date of this Act are abolished.

(b) Provides that the validity of an action taken by TDED or its governing board before it is abolished under Subsection (a) of this section is not affected by the abolishment.

SECTION 1.66. Provides that on September 1, 2003, a rule, standard, or form adopted by TDED or the department's governing board is a rule, standard, or form of the Texas Economic Development and Tourism Office (office) and remains in effect until changed by the executive director of the office; a reference in law to TDED or its governing board means the office; a proceeding involving TDED is transferred without change in status to the office, and the office assumes, without a change in status, the position of TDED in a proceeding to which TDED is a party; all money, contracts, leases, rights, and obligations of TDED are transferred to the office; all property, including records, in the custody of TDED becomes the property of the office; and all funds appropriated by the legislature to TDED are transferred to the office.

SECTION 1.67. (a) Provides that the executive director of TDED serving on the effective date of this Act does not automatically become the executive director of the office. Requires a

person, to become the executive director of the office, to apply for the position and requires the person's employment in that capacity to be approved by the governor.

(b) Provides that an employee of TDED employed on the effective date of this Act does not automatically become an employee of the office. Requires a person, to become an employee of the office, to apply for a position at the office and requires the person's employment in that capacity to be approved by the governor or the executive director of the office.

SECTION 1.68. Provides that a function or activity performed by TDED is transferred to the office as provided by this Act.

SECTION 1.69. Requires TDED or the office, as applicable, to establish a transition plan for the transfer described in Section 1.66 of this Act. Requires the plan to include a reasonable timetable for the effective reconstruction of the department's mission, strategies, performance measures, functions, and staff as they relate to key economic clusters in this state.

SECTION 1.70. (a) On September 1, 2003 the functions performed by TAC are transferred to the aerospace office of the office, the executive director of the TAC becomes the director of the aerospace and aviation office of the office, and all funds appropriated by the legislature to the TAC, including any funds appropriated to TAC collected under Section 502.271, Transportation Code, are transferred to the office account.

(b) Requires the governor to determine the manner in which employees of the TAC, if any, are transferred to the aerospace and aviation office of the office.

ARTICLE 2. CREATION OF TEXAS ECONOMIC DEVELOPMENT BANK

SECTION 2.01. Amends Subtitle F, Title 4, Government Code, by adding Chapter 489, as follows:

CHAPTER 489. TEXAS ECONOMIC DEVELOPMENT BANK SUBCHAPTER A. GENERAL PROVISIONS

Sec. 489.001. DEFINITIONS. Defines "bank," "fund," and "office."

Sec. 489.002. RULES. The office shall adopt rules necessary to carry out the purposes of this chapter.

[Reserves Sections 489.003-489.100 for expansion.]

SUBCHAPTER B. CREATION AND OPERATION OF BANK; TEXAS ECONOMIC DEVELOPMENT BANK FUND

Sec. 489.101. CREATION OF BANK. (a) Requires the office to establish the TEDB to provide globally competitive, cost-effective state incentives to expanding businesses operating in this state and businesses relocating to this state and to ensure that communities and businesses in this state have access to capital for economic development purposes.

(b) Requires TEDB's effectiveness to be measured on the basis of the number of jobs created and retained and the total amount of nonstate funds leveraged as a result of TEDB's efforts.

Sec. 489.102. POWERS AND DUTIES OF BANK. (a) Requires TEDB to offer a variety of financial incentives to help communities and businesses in this state compete and succeed in the global marketplace. Requires TEDB to assist communities in accessing financing with which to fund their economic development efforts.

(b) Sets forth the authorized actions of TEDB.

Sec. 489.103. FEES. Requires TEDB to charge fees to the beneficiaries of its services as TEDB determines necessary. Authorizes amounts collected under this section to be used to support the administration of TEDB's programs and implementation of TEDB's strategies.

Sec. 489.104. ALLOCATION OF RESOURCES. Authorizes TEDB to allocate its resources as necessary to efficiently meet the level of demand experienced by each program or service described by Section 489.108.

Sec. 489.105. TEXAS ECONOMIC DEVELOPMENT BANK FUND. (a) Provides that the Texas economic development bank fund (fund) is a dedicated account in the general revenue fund.

(b) Sets forth the content of the fund.

(c) Authorizes money in the fund to be used only to carry out the purposes of this chapter.

(d) Provides that the financial transactions of the fund are subject to audit by the state auditor as provided by Chapter 321 (State Auditor).

Sec. 489.106. ADMINISTRATION OF FUND AND CHAPTER. Requires the office to administer the fund. Provides that in administering the fund and this chapter, the office has the powers necessary to carry out the purposes of this chapter.

Sec. 489.107. ANNUAL REPORT. Requires the office, on or before January 1 of each year, to submit to the legislature an annual status report on the activities of TEDB.

Sec. 489.108. PROGRAMS, SERVICES, AND FUNDS UNDER BANK'S DIRECTION. Requires TEDB, notwithstanding any other law, to perform the duties and functions of the office with respect to certain programs, services, and funds.

[Reserves Sections 489.109-489.150 for expansion.]

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

Sec. 489.151. STATE LIABILITY PROHIBITED. Provides that the state and state officers or employees are not liable to participants for grants, loans, or other transactions under this chapter except as specifically provided by law.

Sec. 489.152. GIFTS, GRANTS, AND DONATIONS. Authorizes the office to accept gifts, grants, and donations from any source for the purposes of this chapter.

[Reserves Sections 489.153-489.200 for expansion.]

SUBCHAPTER D. PRODUCT DEVELOPMENT AND SMALL BUSINESS INCUBATORS

Sec. 489.201. DEFINITIONS. Defines "board," "financing," "office," "product," "product fund," "program," and "small business fund."

Sec. 489.202. PRODUCT DEVELOPMENT AND SMALL BUSINESS INCUBATOR BOARD. (a) Provides that the Product Development and Small Business Incubator Board (board) is created in the office.

(b) Provides that TEDB administers the programs, the product fund, and the small business fund.

Sec. 489.203. BOARD MEMBERS; APPOINTMENT; TERMS OF OFFICE. (a) Provides that the board consists of nine persons appointed by the governor.

(b) Sets forth the members the board, which the governor is required to appoint.

(c) Provides that appointed members of the board serve two-year staggered terms, with the terms of three members expiring February 1 of each odd-numbered year.

(d) Requires the governor to appoint the presiding officer of the board.

(e) Requires the board to appoint a secretary of the board whose duties may be prescribed by law and by the board.

(f) Provides that appointed members of the board serve without pay but are entitled to reimbursement for their actual expenses incurred in attending meetings of the board or in performing other work of the board if that work is approved by the governor or the governor's designee.

Sec. 489.204. REMOVAL OF BOARD MEMBER. (a) Sets forth the grounds for removal from the board.

(b) Provides that the validity of an action of the board is not affected by the fact that the action was taken when a ground for removal of a board member existed.

Sec. 489.205. TRAINING OF BOARD MEMBERS. (a) Requires the member, before an appointed member of the board is authorized to assume the member's duties, to complete at least one course of the training program established under this section.

(b) Requires a training program established under this section to provide information to the member regarding certain issues.

Sec. 489.206. MEETINGS. (a) Requires the board to hold regular meetings in Austin and other meetings at places and times scheduled by the board in formal sessions and called by TEDB.

(b) Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(c) Requires the board to make minutes of all meetings available in the board's office for public inspection.

Sec. 489.207. APPLICABILITY OF OPEN MEETINGS LAW AND ADMINISTRATIVE PROCEDURE LAW. Provides that the board is subject to the open meetings law, Chapter 551 (Open Meetings), and the administrative procedure law, Chapter 2001 (Administrative Procedure).

Sec. 489.208. STAFF. (a) Provides that the employees of the office selected by the executive director of the office for that purpose serve as the staff of the board.

(b) Requires the executive director of the office to select and to supervise the staff of the board and to perform other duties delegated to the office by the board.

(c) Requires the executive director of the office to provide to members of the board and to board staff, as often as necessary, information regarding their qualifications for office or employment under this subchapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(d) Requires the board to develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the office, TEDB, and the executive director of the office.

Sec. 489.209. PROGRAM AND FACILITY ACCESSIBILITY. (a) Requires the board to comply with federal and state laws related to program and facility accessibility.

(b) Requires the board to prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs and services.

Sec. 489.210. POWERS OF BOARD AND BANK; BONDS. (a) Provides that the board and bank have the powers necessary and reasonable to carry out this subchapter and authorizes the board to adopt rules, policies, and procedures necessary or reasonable to implement this subchapter.

(b) Authorizes the bank to issue general obligation bonds, up to the amounts authorized and as provided by Section 71, Article XVI, Texas Constitution, to fund the program.

(c) Authorizes not more than an amount equal to five percent of the total amount of bonds issued to be used to pay administrative fees involved in selling the bonds.

Sec. 489.211. TEXAS PRODUCT DEVELOPMENT FUND. (a) Provides that the Texas product development fund is a revolving fund in the state treasury.

(b) Provides that the product fund is composed of proceeds of bonds issued under this subchapter, financing application fees, loan repayments, guarantee fees, royalty receipts, dividend income, money appropriated by the legislature for authorized purposes of the product fund, amounts received by the state from loans, loan guarantees, and equity investments made under this subchapter, amounts received by the state from federal grants or other sources, and any other amounts received under this subchapter and required by the bank to be deposited in the product fund. Provides that the product fund contains a program account, an interest and sinking account, and other accounts that the bank authorizes to be created and maintained. Provides that money in the product fund is available for use by the board under this subchapter. Requires investment earnings under the product fund to be transferred to the fund created under Section 489.105. Authorizes any money in the product fund, notwithstanding any other provision of this subchapter, to be used for debt service.

(c) Authorizes money in the program account of the product fund, minus the costs of issuance of bonds under this subchapter and necessary costs of administering the product fund, to be used only to provide financing to aid in the development and production, including the commercialization, of new or improved products in this state. Requires TEDB to provide financing from the product fund on the terms and conditions that TEDB determines to be reasonable, appropriate, and consistent with the purposes and objectives of the product fund and this subchapter, for the purpose of aiding in the development and production of new or improved products in this state.

Sec. 489.212. SMALL BUSINESS INCUBATOR FUND. (a) Provides that the Texas small business incubator fund is a revolving fund in the state treasury.

(b) Provides that the small business fund is composed of proceeds of bonds issued under this subchapter, financing application fees, loan repayments, guarantee fees, royalty receipts, dividend income, money appropriated by the legislature for authorized purposes of the small business fund, amounts received by the state

from loans, loan guarantees, and equity investments made under this subchapter, amounts received by the state from federal grants or other sources, and any other amounts received under this subchapter and required by TEDB to be deposited in the small business fund. Provides that the small business fund contains a project account, an interest and sinking account, and other accounts that the bank authorizes to be created and maintained. Provides that money in the small business fund is available for use by the board under this subchapter. Requires investment earnings under the small business fund to be transferred to the fund created under Section 489.105. Authorizes any money in the small business fund, notwithstanding any other provision of this subchapter, to be used for debt service.

(c) Authorizes money in the project account of the small business fund, minus the costs of issuance of bonds under this subchapter and necessary costs of administering the small business fund, to be used only to provide financing to foster and stimulate the development of small businesses in this state. Requires TEDB to provide financing from the small business fund on the terms and conditions that the bank determines to be reasonable, appropriate, and consistent with the purposes and objectives of the small business fund and this subchapter, for the purpose of fostering and stimulating the development of new or existing small businesses in this state.

Sec. 489.213. ELIGIBLE PRODUCTS AND BUSINESSES; FINANCING. (a) Authorizes financing to be made under this subchapter only for a product or small business approved by TEDB.

(b) Requires TEDB, in determining eligible products and small businesses, to give special preference to products or businesses in the areas of biotechnology and biomedicine that have the greatest likelihood of commercial success, job creation, and job retention in this state. Requires TEDB to give further preference to providing financing certain projects or businesses.

(c) Requires the board to adopt rules governing the terms and conditions of the financing, specifically including requirements for appropriate security or collateral, equity interest, and the rights and remedies of the board and bank in the event of a default on the loan. Requires the rules to include a requirement that applicants report to the bank on the use of money distributed through either fund.

(d) Requires TEDB, before approving the provision of financing to a person, to enter into an agreement with the person under which the bank will obtain an appropriate portion of royalties, patent rights, equitable interests, or a combination of those royalties, rights, and interests from or in the product or the proceeds of the product for which financing is requested. Requires contracts executed under this subchapter to include agreements to ensure proper use of funds and the receipt of royalties, patent rights, or equity interest, as appropriate.

(e) Authorizes the board to appoint an advisory committee of experts in the areas of biotechnology and biomedicine to review projects and businesses seeking financing from TEDB.

(f) Prohibits the amount of financing provided to a single recipient from exceeding 10 percent of the total amount of bonds issued.

(g) Provides that a claim of the state for a payment owed to the state under this subchapter by a person who has been provided financing has priority over all other claims against the person.

Sec. 489.214. APPLICATION PROCESS. (a) Requires an applicant, to apply for financing from TEDB, to submit to TEDB an application for financing on a form

prescribed by TEDB and a reasonable application fee set by TEDB.

(b) Sets forth the minimum required information to be included in the required business plan on the application.

(c) Requires TEDB to determine certain issues, with respect to each application for financing.

(d) Requires TEDB, after considering the application and all other information it considers relevant, to approve or deny the application and promptly notify the applicant of its decision.

Sec. 489.215. INFORMATION CONFIDENTIAL. (a) Provides that information described by Subsection (b) collected, assembled, or maintained by or for the bank is confidential and is prohibited from being disclosed by TEDB, the board, the office, or the executive director of the office.

(b) Provides that this section applies to information in any form provided by or on behalf of an applicant for financing or a recipient of financing under this subchapter, including information contained in, accompanying, or derived from any application or report, that relates to a product, to the development, application, manufacture, or use of a product, or to the markets, market prospects, or marketing of a product and that is proprietary information of actual or potential commercial value to the applicant or recipient that has not been disclosed to the public. Provides that confidential information includes scientific and technological information, including computer programs and software, and marketing and business operation information, regardless of whether the product to which the information relates is patentable or capable of being registered under copyright or trademark laws or has a potential for being sold, traded, or licensed for a fee. Provides that this section does not make confidential information in an account, voucher, or contract relating to the receipt or expenditure of public funds by TEDB, board, or the department or its successor under this subchapter.

(c) Requires any application for financing that is withdrawn by the applicant before approval or funding or that is denied by TEDB to be returned to the applicant promptly on request, together with all materials submitted by or on behalf of the applicant that relate to the application, except that TEDB is authorized to retain a record of the submission and disposition of the application that does not include any information described by Subsection (b).

Sec. 489.216. PROGRAM COORDINATION. Requires TEDB and the office to coordinate the administration and funding of the programs.

Sec. 489.217. EXPENDITURES. Requires all expenditures of the program to be approved on behalf of the state by TEDB. Requires expenses incurred by the program in the operation and administration of its programs and affairs, including expenditures for employees and program assistance or development, to be paid out of fees collected or revenues generated under this subchapter.

SECTION 2.02. (1) Provides that on September 1, 2003, all functions and activities performed by the comptroller of public accounts relating to the small business incubator program, the Texas small business incubator fund, and the Texas product development fund immediately before that date are transferred to the office or TEDB, as provided by this Act.

(2) Makes a rule adopted by the Product Development and Small Business Incubator Board under Subchapter P, Chapter 403, Government Code, with respect to the small business incubator program, the Texas small business incubator fund, and the Texas product development prospective until rules are adopted by the Product Development and Small Business Incubator Board established under Subchapter D, Chapter 489,

Government Code, as added by this Act.

(3) Provides that on September 1, 2003, all money, contracts, leases, rights, and obligations of the comptroller of public accounts related to functions and activities performed by the comptroller relating to the small business incubator program, the Texas small business incubator fund, and the Texas product development fund are transferred to the office or TEDB, as provided by this Act.

(4) Provides that on September 1, 2003, all funds appropriated by the legislature to the comptroller of public accounts for purposes related to the small business incubator program, the Texas small business incubator fund, and the Texas product development fund are transferred to the office or TEDB, as provided by this Act.

(5) Provides that on September 1, 2003, all property, including records, in the custody of the comptroller of public accounts related to functions and activities performed by the comptroller relating to the small business incubator program, the Texas small business incubator fund, and the Texas product development fund becomes property of the office or TEDB, as provided by this Act.

SECTION 2.03. (a) Requires the governor, as soon as possible on or after the effective date of this Act, to appoint nine new members to the Product Development and Small Business Incubator Board in accordance with Subchapter D, Chapter 489, Government Code, as added by this Act. Requires the governor, in making the appointments, to designate three members for terms expiring February 1, 2005, three members for terms expiring February 1, 2007, and three members for terms expiring February 1, 2009. Prohibits the members appointed under this subsection from performing the functions of the board until the day after the date a majority of the new members take office.

(b) Provides that until the date the new members of the Product Development and Small Business Incubator Board are authorized to begin performing the functions of the board under Subsection (a) of this section, the members serving on the board immediately before the effective date of this Act are required to continue to carry out the functions of the board. Provides that on the date the new members are authorized to begin performing the functions of the board, the offices of the members serving immediately before the effective date of this Act are abolished.

(c) Provides that the changes in law made by this Act in the qualifications of, and the prohibitions applying to, members of the Product Development and Small Business Incubator Board do not affect the entitlement of a member serving on the board immediately before the effective date of this Act to continue to carry out the functions of the board for the period prescribed by Subsection (b) of this section. Provides that the changes in law apply only to a member appointed on or after the effective date of this Act. Provides that this Act does not prohibit a person who is a member of the board on the effective date of this Act from being reappointed to the board if the person has the qualifications required for a member under Subchapter D, Chapter 489, Government Code, as added by this Act.

SECTION 2.04. Requires, on the effective date of this Act, unobligated and unexpended money in the capital access fund created under Section 481.402, Government Code, as amended by this Act, and in the Texas leverage fund to be transferred to the TEDB fund created under Section 489.105, Government Code, as added by this Act.

ARTICLE 3. ENTERPRISE ZONES; CERTAIN OTHER ECONOMIC DEVELOPMENT PROGRAMS ADMINISTERED BY TEXAS ECONOMIC DEVELOPMENT BANK

SECTION 3.01. Amends Section 2303.003, Government Code, by amending Subdivisions (1) and (5) and adding Subdivisions (1-a), (1-b), (3-a), (5-a), and (6-a), to define "bank," "block group," "day," "governing body of an enterprise zone," "office," and "qualified business site,"

and redefines "nominating body."

SECTION 3.02. Amends Sections 2303.051, 2303.052, 2303.053, and 2303.054, Government Code, as follows:

Sec. 2303.051. GENERAL POWERS AND DUTIES. (a) Makes a conforming change.

(a-1) Requires TEDB to compile data identifying the block groups in this state that automatically qualify for designation as enterprise zones under this chapter using the poverty data available from the most recent federal decennial census. Requires TEDB to update the block group information as soon as practicable after the date on which the next federal decennial census is released. Requires TEDB to make the information and updates available in an electronic format on the office's Internet website.

(b) Requires TEDB to establish criteria and procedures for designating a project or activity of a qualified business as an enterprise project, rather than an enterprise zone. Makes a conforming change.

(c) Makes a conforming change.

Sec. 2303.052. EVALUATION; REPORT. (a) Requires TEDB to conduct a continuing evaluation of the enterprise zone program, rather than the programs of zones.

(b) and (c) Make conforming changes.

(d) Requires TEDB, on or before January 1, rather than December 15, of each year to submit to the governor, the legislature, and the Legislative Budget Board a report that evaluates the effectiveness of the enterprise zone program, describes the use of state and local incentives under this chapter and their effect on revenue, and suggests legislation.

Sec. 2303.053. ASSISTANCE. (a) Sets forth TEDB's required assistance duties. Makes a conforming change.

(b), (c), and (d) Make conforming changes.

Sec. 2303.054. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES. (a) (b), and (c) Make conforming changes.

SECTION 3.03. Amends Section 2303.101, Government Code, as follows:

Sec. 2303.101. New heading: QUALIFICATION FOR ENTERPRISE ZONE DESIGNATION. Provides that an area automatically qualifies for designation as an enterprise zone under certain circumstances. Deletes text referring to certain criteria.

SECTION 3.04. Amends Section 2303.109, Government Code, as follows:

Sec. 2303.109. PERIOD OF DESIGNATION. (a) Provides that an enterprise zone designation remains in effect indefinitely so long as the area continues to qualify for designation as an enterprise zone under this chapter. Provides that if an area no longer qualifies for enterprise zone designation following the release of a subsequent federal decennial census, the area's designation remains in effect until the date on which TEDB makes the updated information for that subsequent census available to the public as required by Section 2303.051. Deletes text authorizing an area to be designated as an enterprise zone for a maximum of seven years. and text referring to September 1 of the final year of the designation.

(b) Authorizes, notwithstanding Subsection (a), an area designated by the federal

government as a renewal community, a federal empowerment zone, rather than federal enterprise zone, or a federal enterprise community to be designated as an enterprise zone without further qualification for not longer than the period permitted for the respective designation by federal law. Makes a conforming change.

SECTION 3.05. Amends the heading to Subchapter D, Chapter 2303, Government Code, to read as follows:

SUBCHAPTER D. ADMINISTRATION

SECTION 3.06. Amends Section 2303.201, Government Code, to provide that the governing body of an enterprise zone is the governing body of the municipality or county with jurisdiction over the area designated as an enterprise zone. Deletes text referring to the governing bodies of the combination of municipalities or counties.

SECTION 3.07. Amends Section 2303.204, Government Code, to require a nominating body, rather than the governing of an enterprise zone, to designate a liaison to oversee enterprise projects it has nominated under this chapter and to communicate and negotiate with certain entities.

SECTION 3.08. Amends Sections 2303.205(a) and (c), Government Code, as follows:

(a) Requires the nominating body of a project or activity designated as an enterprise project, not later than October 1 of each year, to submit to TEDB a report in the form required by TEDB. Makes conforming changes.

(c) Sets forth the required content of the report.

SECTION 3.09. Amends Section 2303.401, Government Code, as follows:

Sec. 2303.401. New heading: DEFINITIONS. Redefines "new permanent job" and "retained job."

SECTION 3.10. Amends Section 2303.402(a), Government Code, to provide that a person is a qualified business if TEDB, for the purpose of state benefits under this chapter, or the nominating body of a project or activity of the person under this chapter, for the purpose of local incentives, rather than benefits, makes certain certifications. Makes conforming changes.

SECTION 3.11. Amends Sections 2303.403 and 2303.404, Government Code, as follows:

Sec. 2303.403. New heading: PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. Makes conforming changes.

Sec. 2303.404. REQUEST FOR APPLICATION FOR ENTERPRISE PROJECT DESIGNATION. (a) Authorizes a qualified business to request that the governing body of a municipality or county in which the qualified business is located apply to TEDB for designation of a project or activity of the business as an enterprise project. Deletes the requirement that the request be made to the enterprise zone's administrative authority, if one exists. Makes conforming changes.

(b) Requires the enterprise project designation to be for an expansion or relocation from out-of-state, an expansion, renovation, or new construction, or other property to be undertaken by a qualified business; and a predetermined designation period approved by TEDB, with beginning and ending dates for each proposed project or activity. Deletes text referring to unemployment rates and population.

(c) Prohibits the designation period for an enterprise project from exceeding five

years from the date on which the designation is made.

(d) Requires separate books and records, if an enterprise project designation is for a franchise or subsidiary, to be maintained for the business activity conducted at the qualified business site.

SECTION 3.12. Amends Section 2303.405, Government Code, by amending Subsections (a), (b), and (c) and adding Subsection (f), as follows:

(a) Authorizes the governing body, if the governing body approves a request made under Section 2303.404, to apply to TEDB for the designation of the qualified business as an enterprise project only after it submits to the bank the order or ordinance and other information that complies with the requirements of Sections 2303.4051 and 2303.4052. Makes conforming changes.

(b) Sets forth the required content of an application. Deletes requirements for conditions of the enterprise zone and the planned procedures to encourage participation among all affected entities. Makes conforming changes.

(c) Sets forth, for the purposes of this section, what is considered a local effort to develop and revitalize a municipality or county. Makes a conforming change.

(f) Authorizes a nominating body to submit an application for a project or activity that during the application process loses its eligibility for designation as an enterprise project solely because the project or activity is no longer located in an enterprise zone if TEDB receives the application not later than the 30th day after the date on which TEDB makes the updated block group data used to make the eligibility determination available as required by Section 2303.051.

SECTION 3.13. Amends Subchapter F, Chapter 2303, Government Code, by adding Sections 2303.4051 and 2303.4052, as follows:

Sec. 2303.4051. ORDINANCE OR ORDER FOR IDENTIFICATION OF LOCAL INCENTIVES. (a) Defines "local incentive."

(b) Requires the governing body of the municipality or county in which the business is located, by ordinance or order, as appropriate, before nominating the project or activity of a qualified business for designation as an enterprise project, to identify and summarize briefly any local incentives available in certain areas.

(c) Sets forth the required content of the ordinance.

(d) Requires at least one of the local incentives summarized under Subsection (b)(1) to not apply throughout the nominating governmental entity.

(e) Provides that unless the nominating body holds a public hearing before adopting an ordinance or order under this section, the ordinance or order is not valid.

(f) Authorizes the nominating body, if the nominating body has previously nominated a project or activity for designation as an enterprise project, instead of issuing a new ordinance or order under this section for a nominated project or activity, to by resolution make a reference to a previously issued ordinance or order that met the requirements of this section under certain circumstances.

(g) Provides that this section does not prohibit a municipality or county from extending additional incentives, including tax incentives, for business enterprises in an enterprise zone by a separate order or ordinance.

Sec. 2303.4052. **REQUIRED INFORMATION FROM NOMINATING BODY.** Requires the nominating body, before nominating the project or activity of a qualified business for designation as an enterprise project, to submit certain information to the TEDB.

SECTION 3.14. Amends Section 2303.406, Government Code, as follows:

Sec. 2303.406. **ENTERPRISE PROJECT DESIGNATION.** (a) Authorizes TEDB to designate a project or activity of a business as an enterprise project only if TEDB receives all of the information required by Section 2303.4052 and makes certain determinations.

(b) Provides that this subsection does not apply to a qualified business located in a federally designated zone, as described by Section 2303.101(2), which will receive priority designation in allocating the number of enterprise projects allowed statewide per biennium as provided by Section 2303.403. Requires TEDB to designate qualified businesses as enterprise projects on a competitive basis. Requires TEDB to make its designation decisions using a certain weighted scale.

(c) and (d) Make conforming changes.

(e) Authorizes the office to designate multiple concurrent enterprise projects to a qualified business during any biennium.

(f) Provides that an approved designation as a double jumbo enterprise project, as defined by Section 2303.407, counts as two project designations against both the nominating body for purposes of Subsection (d) and the number of enterprise project designations allowed statewide per biennium under Section 2303.403. Provides that an approved designation as a triple jumbo enterprise project, as defined by Section 2303.407, counts as three project designations against both the nominating body for purposes of Subsection (d) and the number of enterprise project designations allowed statewide per biennium under Section 2303.403.

SECTION 3.15. Amends Section 2303.407, Government Code, as amended by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular Session, as follows:

Sec. 2303.407. **ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.** (a) Requires TEDB to allocate to an enterprise project the maximum number of new permanent jobs or retained jobs eligible based on the amount of capital investment made in the project and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. Deletes text referring to regulations concerning the number of jobs. Makes conforming changes.

(b) Sets forth the schedule of the amount of refunds for certain levels of capital investments.

(c) Provides that a capital investment in the range amount and the creation or retention of the number of jobs described by Subsection (b)(5) is considered a double jumbo enterprise project.

(d) Provides that a capital investment in the range amount and the creation or retention of the number of jobs described by Subsection (b)(6) is considered a triple jumbo enterprise project.

SECTION 3.16. Amends Section 2303.407, Government Code, as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, to read as follows:

Sec. 2303.407. **ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.** (a) Requires TEDB to allocate to an enterprise project the maximum number of new permanent jobs or retained jobs eligible based on the amount of capital investment made

in the project and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. Deletes text referring to the authorized number of jobs.

(b) Sets forth the schedule of refunds according to the amount of capital investment in a project and the number of created or retained jobs.

(c) Provides that a capital investment in the range amount and the creation or retention of the number of jobs described by Subsection (b)(5) is considered a double jumbo enterprise project.

(d) Provides that a capital investment in the range amount and the creation or retention of the number of jobs described by Subsection (b)(6) is considered a triple jumbo enterprise project.

SECTION 3.17. Amends Subchapter F, Chapter 2303, Government Code, by adding Sections 2303.4071 and 2303.4072, as follows:

Sec. 2303.4071. MAXIMUM TAX REFUND. (a) Defines "double jumbo enterprise project" and "triple jumbo enterprise project."

(b) Provides that an enterprise project is eligible for a maximum refund of \$250,000 in each state fiscal year.

(c) Provides that a double jumbo enterprise project is eligible for a maximum refund of \$500,000 in each state fiscal year.

(d) Provides that a triple jumbo enterprise project is eligible for a maximum refund of \$750,000 in each state fiscal year.

Sec. 2303.4072. ENTERPRISE PROJECT CLAIM FOR STATE BENEFIT. Requires a person to make a claim to the comptroller for a state benefit as prescribed under this chapter and Chapters 151 (Limited Sales, Excise, and Use Tax) and 171 (Franchise Tax), Tax Code, not later than 18 months after the date on which the term of the enterprise project designation expires as provided by Section 2303.404.

SECTION 3.18. Amends Section 2303.408, Government Code, as follows:

Sec. 2303.408. DURATION OF CERTAIN DESIGNATIONS. Provides that TEDB's designation of the project or activity of a qualified business as an enterprise project is effective until the period approved by the bank under Section 2303.404 regardless of whether the enterprise zone in which the project is located, if any, fails to qualify as an enterprise zone before the expiration of the project. Deletes text referring to the fifth anniversary as the end of the effectiveness of an enterprise project.

SECTION 3.19. Amends Section 2303.501(a), Government Code, to authorize a state agency to exempt from its regulation a qualified business, qualified employee, or qualified property in an enterprise zone if the exemption is consistent with the purposes of this chapter the protection and promotion of the general health and welfare. Makes a conforming change.

SECTION 3.20. Amends Sections 2303.502 (b) and (c), Government Code, to make conforming changes.

SECTION 3.21. Amends Section 2303.503(d), Government Code, to make conforming changes.

SECTION 3.22. Amends Sections 2303.504(b) and (c), Government Code, as amended by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular Session, as follows:

(b) Requires three percent of the amount of the tax benefit, at the time of receipt of any

tax benefit available as a result of participating in the enterprise zone program, including a state sales and use tax refund or franchise tax credit, to be transferred to TEDB fund under Subchapter B, Chapter 489, to defray the cost of administering this chapter. Deletes text referring to the refund of taxes for a qualified business.

(c) Makes conforming changes.

SECTION 3.23. Amends Sections 2303.504 (b) and (c), Government Code, as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, as follows:

(b) Requires three percent of the amount of the tax benefit, at the time of receipt of any tax benefit available as a result of participating in the enterprise zone program, including a state sales and use tax refund or franchise tax credit, to be transferred to TEDB fund under Subchapter B, Chapter 489, to defray the cost of administering this chapter. Deletes text referring to the refund of taxes for a qualified business.

(c) Makes conforming changes.

SECTION 3.24. Amends Sections 2303.513 (a) and (b), Government Code, to make conforming changes.

SECTION 3.25. Amends Section 2303.516, Government Code, as follows:

Sec. 2303.516. MONITORING QUALIFIED BUSINESS OR ENTERPRISE PROJECT COMMITMENTS. (a) and (b) Make conforming changes.

(c) Requires the nominating body, on the date on which a certificate of occupancy is issued with respect to an enterprise project or at the completion of the enterprise project designation period as indicated by the approved application, to monitor the qualified business to determine whether the business or project has followed through on any commitments or goals made by it or on its behalf in the designation application. Requires the nominating body, on completion, to submit a report of its findings to TEDB and comptroller.

(d) Authorizes a qualified business to obtain a state benefit, earned through a specific enterprise project designation, on completion of an audit performed by the comptroller that will certify hiring commitments and eligible purchases made by or on behalf of a qualified business under this chapter.

SECTION 3.26. Amends Subchapter G, Chapter 2303, Government Code, by adding Section 2303.517, as follows:

Sec. 2303.517. REPORT. Requires the qualified business, before obtaining a state benefit, to submit to TEDB a certified report of the actual number of jobs created or retained and the capital investment made at or committed to the qualified business site.

SECTION 3.27. Amends Section 2310.001, Government Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (4-a), as follows:

(1) Defines "bank."

(1-a) Creates this subsection from existing text.

(4-a) Defines "office."

SECTION 3.28. Amends Section 2310.051, Government Code, to make conforming changes.

SECTION 3.29. Amends Section 2310.052, Government Code, to make conforming changes.

SECTION 3.30. Amends Section 2310.053, Government Code, to make conforming changes.

SECTION 3.31. Amends Section 2310.054, Government Code, to make conforming changes.

SECTION 3.32. Amends Section 2310.102, Government Code, to make a conforming change.

SECTION 3.33. Amends Sections 2310.105(a) and (b), Government Code, to make conforming changes.

SECTION 3.34. Amends Section 2310.106, Government Code, to make conforming changes.

SECTION 3.35. Amends Sections 2310.107 (a), (c), and (d), Government Code, to make conforming changes.

SECTION 3.36. Amends Section 2310.108, Government Code, to make conforming changes.

SECTION 3.37. Amends Sections 2310.110 (b) and (e), Government Code, as follows:

(b) Prohibits the amended boundary from excluding any qualified business designated as a defense readjustment project, rather than in the zone originally, included within the boundary of the zone as designated.

(e) Makes conforming changes.

SECTION 3.38. Amends Section 2310.111(a), Government Code, to make conforming changes.

SECTION 3.39. Amends Section 2310.203, Government Code, to make a conforming change.

SECTION 3.40. Amends Section 2310.204(a), Government Code, to make conforming changes.

SECTION 3.41. Amends Section 2310.302(a), Government Code, to make a conforming change.

SECTION 3.42. Amends Sections 2310.303 and 2310.304, Government Code, as follows:

Sec. 2310.303. PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION. Prohibits TEDB from designating more than two defense readjustment projects, rather than businesses, in a single readjustment zone. Makes conforming changes.

Sec. 2310.304. REQUEST FOR APPLICATION FOR DEFENSE READJUSTMENT PROJECT DESIGNATION. Makes a conforming change.

SECTION 3.43. Amends Sections 2310.305(a) and (b), Government Code, to make conforming changes.

SECTION 3.44. Amends Sections 2310.306, 2310.307, and 2310.308, Government Code, as follows:

Sec. 2310.306. DEFENSE READJUSTMENT PROJECT DESIGNATION. (a) - (c) Make conforming changes.

(d) Authorizes TEDB to designate the same qualified business in a readjustment zone as more than one defense readjustment project.

Sec. 2310.307. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND. Makes conforming changes.

Sec. 2310.308. DURATION OF CERTAIN DESIGNATIONS. Makes a conforming change.

SECTION 3.45. Amends Section 2310.402(b), Government Code, to make a conforming change.

SECTION 3.46. Amends Section 2310.403(d), Government Code, to make a conforming change.

SECTION 3.47. Amends Section 2310.404(b), Government Code, as amended by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular Session, to make a conforming change.

SECTION 3.48. Amends Section 2310.404(b), Government Code, as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, to make a conforming change.

SECTION 3.49. Amends Section 2310.410(b), Government Code, to make a conforming change.

SECTION 3.50. Amends Section 2310.413, Government Code, as follows:

Sec. 2310.413. New heading: MONITORING DEFENSE READJUSTMENT PROJECT COMMITMENTS. (a) and (b) Make conforming changes.

SECTION 3.51. Amends Sections 151.429(a) and (b), Tax Code, as amended by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular Session, as follows:

(a) Makes conforming changes.

(b) Provides that subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section based on the amount of capital investment made at the qualified business site and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. Sets forth the schedule of refunds according to the capital investment and the number of created and retained jobs.

SECTION 3.52. Amends Section 151.429(a) and (b), Tax Code, as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, as follows:

(a) Makes conforming changes.

(b) Sets forth the schedule of refunds according to the capital investment and the number of created and retained jobs. Makes a conforming change.

SECTION 3.53. Amends Section 151.429, Tax Code, by amending Subsections (c), (d), (e), and (g) and adding Subsections (i) and (j), as follows:

(c) Deletes the prohibition from an enterprise project applying for a refund under this section after the end of the state fiscal year immediately following the state fiscal year in which the enterprise project's designation as an enterprise project expires or is removed.

(d) Makes conforming changes.

(e) Redefines "enterprise project."

(g) Requires the comptroller, rather than the Texas Department of Economic Development, to annually certify whether the required level of employment of qualified employees has been maintained. Makes a conforming change.

(i) Provides that as provided by Subsection (c), a double jumbo enterprise project is eligible for a maximum refund of \$500,000 and a triple jumbo enterprise project is eligible for a maximum refund of \$750,000 in each state fiscal year.

(j) Prohibits an enterprise project approved by TEDB after September 1, 2003, from receiving a refund before September 1, 2005.

SECTION 3.54. Amends Sections 151.4291(d) and (g), Tax Code, to make conforming changes.

SECTION 3.55. Amends Section 151.4291(e)(1), Tax Code, to make a conforming change.

SECTION 3.56. Amends Sections 151.431(a) and (b), Tax Code, as follows:

(a) Authorizes a qualified business operating in the jurisdiction of the nominating governmental entity, rather than the enterprise zone's jurisdiction, for at least three consecutive years to apply for and be granted a onetime refund of sales and use tax paid by the qualified business after certification of the qualified business as provided by Subsection (b) of this section to a vendor or directly to the state for the purchase of equipment or machinery sold to the business for use in an enterprise project if the governing body or bodies certify to the comptroller that the business is retaining 10 or more jobs held by qualified employees during the year. Makes conforming changes.

(b) Deletes text authorizing no more than three eligible qualified businesses, during each calendar year, to be certified to the department by a municipality or county, subject to Subsection (c). Makes a conforming change.

SECTION 3.57. Amends Section 151.431(e)(2), Tax Code, to redefine "governing body."

SECTION 3.58. Amends Section 171.501(a) and (b), Tax Code, as follows:

(a) Deletes text referring to multiple governing bodies. Makes conforming changes.

(b) Makes conforming changes.

SECTION 3.59. Amends Section 171.501(e)(2), Tax Code, to redefine "governing body."

SECTION 3.60. Amends Sections 171.751(13) and (14), Tax Code, as amended by Chapter 1134, Acts of the 77th Legislature, Regular Session, effective September 1, 2003, to redefine "defense readjustment project" and "enterprise project."

SECTION 3.61. Amends Article 21.49B, Insurance Code, to make a conforming change.

SECTION 3.62. Amends Sections 4(b), (d), (f), and (g), Article 5190.6, V.T.C.S., as follows:

(b) Requires the state, for purposes of this Act, to be considered to be the unit under whose auspices the Texas Small Business Industrial Development Corporation is created. Makes a conforming change.

(d) Requires the governor to appoint the board of directors of the Texas Small Business Industrial Development Corporation. Provides that the governor or the governor's designee and the executive director of the office serve as nonvoting ex officio members of the board. Deletes the requirement that the members of the board of the department serve ex officio as the board of directors of the Texas Small Business Industrial Development Corporation.

(f) and (g) Make conforming changes.

SECTION 3.63. Makes application of this Act to Chapter 2303, Government Code, and Chapters 151 and 171, Tax Code, apply only to an application for a designation under the enterprise zone program under Chapter 2303, Government Code, as amended by this Act, prospective.

SECTION 3.64. Provides that this Act does not affect the effective dates of Section 2303.407,

Sections 2303.504(b) and (c), and Section 2310.404(b), Government Code, and Sections 151.429 (a) and (b), Tax Code, as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session.

ARTICLE 4. CERTAIN ECONOMIC DEVELOPMENT PROGRAMS
ADMINISTERED BY TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE

SECTION 4.01. Amends Title 2, Agriculture Code, by adding Chapter 16 as follows:

CHAPTER 16. FUEL ETHANOL AND BIODIESEL PRODUCTION
INCENTIVE PROGRAM

Sec. 16.001. DEFINITIONS. Defines "account," "ASTM," "biodiesel," "fuel ethanol," "office," and "producer."

Sec. 16.002. PLANT REGISTRATION. (a) Requires a producer, to be eligible for a grant for fuel ethanol or biodiesel produced in a plant, to apply to the office for the registration of the plant. Authorizes a producer to apply for the registration of more than one plant.

(b) Sets forth the required content of an application for the registration of a plant.

(c) Requires the office, after consultation with the Texas Department of Agriculture (TDA), to register each plant that qualifies under this section. Requires the office to notify TDA of plants registered under this section.

Sec. 16.003. REPORTS. (a) Requires a producer, on or before the fifth day of each month, to report certain information to the office.

(b) Provides that a producer who fails to file a report as required by this section is ineligible to receive a grant for the period for which the report is not filed.

(c) Requires the office to send a copy of each report to TDA.

Sec. 16.004. FUEL ETHANOL AND BIODIESEL PRODUCTION ACCOUNT. (a) Provides that the fuel ethanol and biodiesel production account is an account in the general revenue fund that authorized to be appropriated only to the office for the purposes of this chapter, including the making of grants under this chapter.

(b) Sets forth the composition of the account.

(c) Requires the comptroller to transfer from the undedicated portion of the general revenue fund to the account an amount of money equal to 5.25 times the amount of the fees collected under Section 16.005.

Sec. 16.005. FEE ON FUEL ETHANOL AND BIODIESEL PRODUCTION. (a) Requires the office to impose a fee on each producer in an amount equal to 3.2 cents for each gallon of fuel ethanol or biodiesel produced in each registered plant operated by the producer.

(b) Prohibits the office, for each fiscal year, from imposing fees on a producer for more than 18 million gallons of fuel ethanol or biodiesel produced at any one registered plant.

(c) Requires the office to transfer the fees collected under this section to the comptroller for deposit to the credit of the account.

(d) Prohibits the office from imposing fees on a producer for fuel ethanol or biodiesel produced at a registered plant after the 10th anniversary of the date

production from the plant begins.

(e) Authorizes the office to enter into an interagency contract with TDA authorizing TDA to impose and collect fees on behalf of the office under this section.

Sec. 16.006. FUEL ETHANOL AND BIODIESEL GRANTS. (a) Requires the office, after consultation with TDA, to make grants to producers as an incentive for the development of the fuel ethanol and biodiesel industry and agricultural production in this state.

(b) Provides that a producer is entitled to receive from the account 20 cents for each gallon of fuel ethanol or biodiesel produced in each registered plant operated by the producer until the 10th anniversary of the date production from the plant begins.

(c) Provides that for each fiscal year a producer is prohibited from receiving grants for more than 18 million gallons of fuel ethanol or biodiesel produced at any one registered plant.

(d) Requires the office by rule to provide for the distribution of grant funds under this chapter to producers. Requires the office to make grants not less often than quarterly.

(e) Requires the office, if the office determines that the amount of money credited to the account is not sufficient to distribute the full amount of grant funds to eligible producers as provided by this chapter for a fiscal year, to proportionately reduce the amount of each grant for each gallon of fuel ethanol or biodiesel produced as necessary to continue the incentive program during the remainder of the fiscal year.

SECTION 4.02. Prohibits, notwithstanding Section 16.004(c), Agriculture Code, as added by this Act, the comptroller from making transfers from general revenue under that subsection during the fiscal biennium ending August 31, 2005.

ARTICLE 5. SUPPORT FOR MAJOR SPORTS EVENTS

SECTION 5.01. Amends Article 5190.14, V.T.C.S., by amending Subdivisions (1), (2), (3), and (5) through (8) and adding Subdivision (1-a), as follows:

- (1) Redefines "department."
- (1-a) Defines "endorsing county."
- (2) Redefines "endorsing municipality."
- (3) Redefines "games."
- (5) Redefines "joinder agreement."
- (6) Redefines "joinder undertaking."
- (7) Redefines "local organizing committee."
- (8) Redefines "site selection organization."

SECTION 5.02. Amends Article 5190.14, V.T.C.S., as follows:

Sec. 2. PURPOSE. Provides that the purpose of this Act is to provide assurances

required by a site selection organization sponsoring one or more games and to provide financing for the costs of applying or bidding for selection as the site of the games in this state; making the preparations necessary and desirable for the conduct of the games in this state, including the construction or renovation of facilities; and conducting the games in this state.

Sec. 3. LEGISLATIVE FINDINGS. Sets forth legislative findings on the benefits of the conduct in this state of one or more games. Deletes a reference to the 2007 Pan American Games or the 2012 Olympic Games.

SECTION 5.03. Amends Article 5190.14, V.T.C.S., as follows:

(a) Redefines "games" and defines "endorsing municipality."

(b) Requires the comptroller, if a site selection organization selects a site for the games in this state pursuant to an application by a local organizing committee acting on behalf of an endorsing municipality, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the comptroller, but in no event later than one year before the scheduled opening event of the games, to determine certain items for each subsequent calendar quarter, in accordance with procedures developed by the comptroller:

(d) Deletes a reference to the comptroller being subject to Section 6 of this Act, in carrying out the provisions of this subsection.

(f) Makes conforming changes.

(i) Requires the comptroller to provide an estimate not later than September 1 of the year that is eight years before the year in which the games would be held in this state, rather than 1999, of the total amount of state and municipal tax revenue that would be deposited in the Pan American Games trust fund before January 1 of the year following the year in which the games would be held, rather than 2008, if the games were to be held in this state at a site selected pursuant to an application by a local organizing committee.

(l) Requires the comptroller, on January 1 of the second year following the year in which the games are held in this state, rather than 2009, to transfer to the general revenue fund any money remaining in the Pan American Games trust fund, not to exceed the amount of state revenue remaining in the trust fund, plus any interest earned on that state revenue.

SECTION 5.04. Amends Article 5190.14, V.T.C.S., as follows:

(a) Redefines "games" and defines "endorsing county" and "endorsing municipality."

(b) Requires the comptroller, if a site selection organization selects a site for the games in this state pursuant to an application by a local organizing committee, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the comptroller, but in no event later than one year before the scheduled opening event of the games, to determine certain amounts for each subsequent calendar quarter, in accordance with procedures developed by the comptroller.

(c) Requires each endorsing municipality or endorsing county that has been selected as the site for the games to be included in a market area for the games.

(d) Requires the comptroller, subject to Section 6 of this Act, to retain, for the purpose of guaranteeing the joint obligations of the state and an endorsing municipality or endorsing county under a games support contract and this Act, the amount of sales and use tax revenue and mixed beverage tax revenue determined under Subsection (b)(2) or (b)(3) of this section from the amounts otherwise required to be sent to the municipality under Section 183.051(b) or 321.502, Tax Code, or to the county under Section 183.051(b) or

323.502, Tax Code, beginning with the first distribution of that tax revenue that occurs after the date the comptroller makes the determination of the amount of sales and use tax revenue and mixed beverage tax revenue under Subsection (b)(2) or (b)(3) of this section. Requires the comptroller to discontinue retaining sales and use tax revenue and mixed beverage tax revenue under this subsection on the earlier of certain dates. Deletes references to municipal sales tax.

(e) Authorizes an endorsing municipality or endorsing county, in addition to sales and use tax revenue and mixed beverage tax revenue retained under Subsection (d) of this section and hotel occupancy tax revenue retained under Subsection (f) of this section, to guarantee its obligations under a games support contract and this Act by pledging surcharges from user fees, including parking or ticket fees, charged in connection with presentation of the games. Makes a conforming change.

(f) Requires each endorsing municipality or endorsing county to remit to the comptroller and the comptroller, subject to Subsection (m) of this section, to deposit into a trust fund designated as the Olympic Games trust fund, on a quarterly basis, the amount of the municipality's or county's hotel occupancy tax revenue determined under Subsection (b)(4) or (b)(5) of this section, as applicable. Requires the comptroller, Subject to Section 6 of this Act and Subsection (m) of this section, to deposit into the trust fund the amount of sales and use tax revenue and mixed beverage tax revenue retained under Subsection (d) of this section for the same calendar quarter and, at the same time, the state tax revenue determined under Subsection (b)(1) of this section for the quarter. Provides that the Olympic Games trust fund is established outside the treasury but is held in trust by the comptroller for the administration of this Act. Requires the comptroller to discontinue deposit of the amount of state tax revenue determined under Subsection (b)(1) of this section on the earlier of certain dates. Makes conforming changes.

(g) Makes conforming changes.

(i) Requires the comptroller to provide an estimate before August 31 of the year that is 12 years before the year in which the games would be held in this state, rather than 2000, or as soon as practical after that date, of the total amount of state, municipal, and county tax revenue that would be deposited in the Olympic Games trust fund if the games were to be held in this state at a site selected pursuant to an application by a local organizing committee.

(j) and (k) Makes conforming changes.

(l) Requires the comptroller to remit to each endorsing entity in proportion to the amount contributed by the entity, rather than municipality, any money remaining in the trust fund after the required amount is transferred to the general revenue fund. Makes a conforming change.

(m) Makes conforming changes.

SECTION 5.05. Amends Article 5190.14, V.T.C.S., by adding Section 5A, as follows:

Sec. 5A. PAYMENT OF STATE AND MUNICIPAL OR COUNTY OBLIGATIONS; OTHER EVENTS TRUST FUND. (a) Defines "endorsing county," "endorsing municipality," "event support contract," "game," and "site selection organization."

(b) Requires the comptroller, if a site selection organization selects a site for a game in this state pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county, not later than three months before the date of the game, to determine certain fiscal matters for the two-week period that ends at the end of the day after the date on which the game will be held, in accordance with procedures developed by the comptroller.

(c) Requires the comptroller, for the purposes of Subsection (b)(1) of this section, to designate as a market area for the game each area in which the comptroller determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the game and related events, including areas likely to provide venues, accommodations, and services in connection with the game based on the proposal provided by the local organizing committee to the comptroller. Requires the comptroller to determine the geographic boundaries of each market area. Requires an endorsing municipality or endorsing county that has been selected as the site for the game to be included in a market area for the game.

(d) Requires each endorsing municipality or endorsing county to remit to the comptroller and requires the comptroller to deposit into a trust fund created by the comptroller and designated as the Other Events trust fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Subsection (b)(4) or (b)(5) of this section, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. Requires the comptroller to retain the amount of sales and use tax revenue and mixed beverage tax revenue determined under Subsection (b)(2) or (b)(3) of this section from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, and deposit into the trust fund the tax revenues, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. Requires the comptroller to begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the two-week period described by Subsection (b) of this section and to discontinue retaining the local tax revenues under this subsection when the amount of the applicable tax revenue determined under Subsection (b)(2) or (b)(3) of this section has been retained. Provides that the Other Events trust fund is established outside the state treasury and is held in trust by the comptroller for administration of this Act. Authorizes money in the trust fund to be disbursed by the comptroller without appropriation only as provided by this section.

(e) Authorizes an endorsing municipality or endorsing county, in addition to the tax revenue deposited in the Other Events trust fund under Subsection (d) of this section, to guarantee its obligations under a game support contract and this section by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the game.

(f) Requires the comptroller to deposit a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of the local sales and use tax revenue and mixed beverage tax revenue retained and the hotel occupancy tax revenue remitted by an endorsing municipality or endorsing county under Subsection (d) of this section.

(g) Authorizes an endorsing municipality by ordinance or an endorsing county by order, to meet its obligations under a game support contract or event support contract to improve, construct, renovate, or acquire facilities or to acquire equipment, to authorize the issuance of notes. Authorizes an endorsing municipality or endorsing county to provide that the notes be paid from and secured by amounts on deposit or amounts to be deposited into the Other Events trust fund or surcharges from user fees, including parking or ticket fees, charged in connection with the game. Requires any note issued to mature not later than seven years from its date of issuance.

(h) Authorizes the funds in the Other Events trust fund to be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of the state or

an endorsing municipality or endorsing county to a site selection organization under a game support contract or event support contract, which obligations may include the payment of costs relating to the preparations necessary or desirable for the conduct of the game and the payment of costs of conducting the game, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

(i) Requires a local organizing committee, endorsing municipality, or endorsing county to provide information required by the comptroller to enable the comptroller to fulfill the comptroller's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the game and to the economic impact of the game. Requires a local organizing committee, endorsing municipality, or endorsing county to provide an annual audited financial statement required by the comptroller, if any, not later than the end of the fourth month after the date the period covered by the financial statement ends.

(j) Requires the comptroller to provide an estimate not later than three months before the date of a game of the total amount of tax revenue that would be deposited in the Other Events trust fund under this section in connection with that game, if the game were to be held in this state at a site selected pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county. Requires the comptroller to provide the estimate on request to a local organizing committee, endorsing municipality, or endorsing county. Authorizes a local organizing committee, endorsing municipality, or endorsing county to submit the comptroller's estimate to a site selection organization.

(k) Authorizes the comptroller to make a disbursement from the Other Events trust fund on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which an endorsing municipality or endorsing county or the state is obligated under a game support contract or event support contract. Prohibits a disbursement from being made from the trust fund that the comptroller determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(l) Requires the obligation, if a disbursement is made from the Other Events trust fund under Subsection (k), to be satisfied proportionately from the state and local revenue in the trust fund.

(m) Requires the comptroller, on payment of all state, municipal, or county obligations under a game support contract or event support contract related to the location of any particular game in the state, to remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the trust fund.

(n) Provides that this subsection applies only to a bid for or hosting of the 2004 Super Bowl. Prohibits the comptroller, notwithstanding any provision in this section to the contrary, from retaining and the endorsing municipality or endorsing county from remitting to the comptroller, as applicable, the local tax revenues described in Subsection (b)(2), (b)(3), (b)(4), or (b)(5) of this section. Requires the comptroller, for purposes of Subsection (f) of this section, to deposit a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of the local sales and use tax revenue and mixed beverage tax revenue that the comptroller determines pursuant to Subsection (b) of this section represents the incremental increase in receipts to an endorsing municipality or endorsing county.

(o) Prohibits this section from being construed as creating or requiring a state

guarantee of obligations imposed on the state or an endorsing municipality or endorsing county under a game support contract or other agreement relating to hosting one or more games in this state.

(p) Prohibits the comptroller from undertaking any of the responsibilities or duties set forth in this section unless a request is submitted by the municipality and the county in which the game will be located. Requires the request to be accompanied by documentation from a site selection organization selecting the site for the game.

(q) Provides that this section expires January 1, 2007.

SECTION 5.06. Amends Article 5190.14, V.T.C.S., as follows:

Sec. 6. New heading: MUNICIPAL OR COUNTY ELECTION. (a) Requires, except as provided by Subsections (b) and (d) of this section, an endorsing municipality or endorsing county to hold an election in the municipality or county to determine whether the municipality or county may contribute a portion of its sales and use taxes to the Olympic Games trust fund under Section 5 of this Act. The election must be held on a uniform election date before the date a site selection organization requires the endorsing municipality or endorsing county and the state to enter into a joinder undertaking relating to the applicable games. Deletes text referring to the Pan American Games and the effective date of this Act.

(b) Sets forth procedures if an endorsing municipality or endorsing county is required to hold an election under this section and the contribution of a portion of the municipality's or county's sales and use taxes to the Olympic Games trust fund under Section 5 of this Act is not approved by a majority of the voters voting in the election. Deletes text referring to the Pan American games.

(c) Provides that an endorsing municipality or endorsing county, notwithstanding any other provisions of this Act, is not required to hold an election in order to contribute its mixed beverage tax revenue or its hotel occupancy tax revenue to the Olympic Games trust fund under Section 5 of this Act.

SECTION 5.07. Amends Article 5190.14, V.T.C.S., as follows:

(a) Requires the Texas Department of Commerce (department) to review requests from a local organizing committee, endorsing municipality, or endorsing county that the department, on behalf of the state, enter into a games support contract that is required by a site selection organization in connection with the committee's, municipality's, or county's bid to host any of the games. Provides that this section does not affect or apply to an event support contract under Section 5A of this Act to which the department is not a party.

(b) Makes conforming changes.

(e) Sets forth the provisions to which the department is authorized to agree to in a joinder agreement. Makes conforming changes.

(f) - (j) Make conforming changes.

SECTION 5.08. Amends Section 26.041, Tax Code, by adding Subsection (j), to provide that any amount derived from the sales and use tax that is retained by the comptroller under Section 4 or 5, Chapter 1507, Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, V.T.C.S.), is not considered to be sales and use tax revenue for purposes of this section.

SECTION 5.09. Repealer: Article 5190.14, Section 7(k) (prohibiting the department from obligating the state to pay or otherwise provide funds to cover the costs of construction or

purchase of a building or other facility by a municipality), V.T.C.S.

ARTICLE 6. REPEALER

SECTION 66. Repealer: Chapter 146 (Texas-Mexico Development Fund Program), Education Code; Sections 481.001(1), (3), and (4) (Definitions), 481.004 (Governing Board), 481.0041 (Removal of Governing Board Members), 481.0043 (Officers; Compensation; Meetings), 481.0044 (General Powers and Duties), 481.005(b) (Executive Director; Governing Board Duties), 481.006 (Divisions), 481.0068 (Office of Small Business Assistance), 481.007 (Advisory Committees), 481.010(c) (Personnel), 481.0231 (Development Corporation Training Seminar), 481.028 (Memorandum of Understanding With Other State Agencies), 481.041 (Legislative Findings), 481.045 (Powers to be Interpreted Broadly), 481.059 (Texas Exporters Loan Fund), 481.071 (Legislative Findings), 481.073(a) and (b) (Powers and Duties Relating to Financing), 481.077 (Statewide Certified Development Corporation), 481.084 (Loan Guarantees), 481.087 (Fund), 481.1665 (Information on Programs and Services for Certain Communities and Entities), 481.168 (Annual Report of Tax Incentive Laws and Economic Development Laws of Other States), 481.171 (Legislative Findings), 481.201 (Agreement with Historical Commission), and 481.403 (Transfer of Money From Other Funds to the Capital Access Fund), Government Code; Subchapters G (Statewide Economic Development Plan) and CC (Texas-Mexico Commerce and International Relations Coordinated Plan), Chapter 481 (Texas Department of Economic Development), Government Code; Chapters 482 (Texas Aerospace Commission) and 484 (Texas Manufacturing Institute), Government Code; and Section 39 (Training Seminars for Certain City and County Officials), Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.).

ARTICLE 7. EFFECTIVE DATE

SECTION 67. Effective date: September 1, 2003.