

AN ACT

relating to the abolition of the Texas Department of Economic Development and the transfer of certain of its functions and the functions of the Texas Aerospace Commission to the Texas Economic Development and Tourism Office; to the establishment, operation, and funding of the Texas Economic Development Bank; and to the administration and operation of certain economic development programs; authorizing the issuance of bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

SECTION 1.01. The heading to Chapter 481, Government Code, is amended to read as follows:

CHAPTER 481. TEXAS [~~DEPARTMENT OF~~] ECONOMIC DEVELOPMENT AND
TOURISM OFFICE

SECTION 1.02. Section 481.001, Government Code, is amended by adding Subdivisions (5), (6), and (7) to read as follows:

(5) "Bank" means the Texas Economic Development Bank.

(6) "Industry cluster" means a concentration of businesses and industries in a geographic region that are interconnected by the markets they serve, the products they produce, their suppliers, the trade associations to which their employees belong, and the educational institutions from which their

1 employees or prospective employees receive training.

2 (7) "Office" means the Texas Economic Development and
3 Tourism Office.

4 SECTION 1.03. Section 481.002, Government Code, is amended
5 to read as follows:

6 Sec. 481.002. OFFICE [~~DEPARTMENT~~]. The Texas [~~Department~~
7 ~~of~~] Economic Development and Tourism Office is an office within the
8 office of the governor [~~agency of the state~~].

9 SECTION 1.04. Section 481.003, Government Code, is amended
10 to read as follows:

11 Sec. 481.003. SUNSET PROVISION. The Texas [~~Department of~~]
12 Economic Development and Tourism Office is subject to Chapter 325
13 (Texas Sunset Act). Unless continued in existence as provided by
14 that chapter, the office [~~department~~] is abolished and this chapter
15 expires September 1, 2015 [~~2003~~].

16 SECTION 1.05. Section 481.0042, Government Code, is amended
17 by amending Subsections (a), (b), (c), and (e) and adding
18 Subsection (f) to read as follows:

19 (a) A person may not [~~serve as a public member of the~~
20 ~~governing board or~~] be the executive director or an employee of the
21 office employed in a "bona fide executive, administrative, or
22 professional capacity," as that phrase is used for purposes of
23 establishing an exemption to the overtime provisions of the federal
24 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
25 and its subsequent amendments, [~~department~~] if the person:

26 (1) is employed by, participates in the management of,
27 or is a paid consultant of a business entity that contracts with the

1 office [~~department~~];

2 (2) owns or controls, directly or indirectly, more
3 than a 10 percent interest in a business entity or other
4 organization that contracts with the office [~~department~~];

5 (3) uses or receives a substantial amount of tangible
6 goods, services, or funds from the office [~~department~~], other than
7 compensation or reimbursement authorized by law for employee
8 salaries and benefits [~~or for governing board membership,~~
9 ~~attendance, and expenses~~]; or

10 (4) is an officer, employee, or paid consultant of a
11 trade association of businesses in the field of economic
12 development or tourism or that contracts with the office
13 [~~department~~].

14 (b) A person may not [~~serve as a public member of the~~
15 ~~governing board or~~] be the executive director or an employee of the
16 office [~~department~~] if the person's spouse:

17 (1) is employed by, participates in the management of,
18 or is a paid consultant of a business entity that contracts with the
19 office [~~department~~];

20 (2) owns or controls, directly or indirectly, more
21 than a 10 percent interest in a business entity or other
22 organization that contracts with the office [~~department~~];

23 (3) uses or receives a substantial amount of tangible
24 goods, services, or funds from the office [~~department~~]; or

25 (4) is an officer, manager, or paid consultant of a
26 trade association of businesses in the field of economic
27 development or tourism or that contracts with the office

1 ~~[department]~~.

2 (c) For the purposes of this section, a trade association is
3 a nonprofit, cooperative, and voluntarily joined association of
4 business or professional competitors in this state designed to
5 assist its members and its industry or profession in dealing with
6 mutual business or professional problems and in promoting their
7 common interest.

8 (e) A person may not be ~~[a member of the governing board or]~~
9 the executive director or an employee of the office ~~[department]~~ if
10 the person is required to register as a lobbyist under Chapter 305
11 because of the person's activities for compensation on behalf of a
12 business entity that has an interest in a contract with the office
13 ~~[department]~~ or a profession related to the operation of the office
14 ~~[department]~~.

15 (f) A person may not act as the general counsel to the office
16 if the person is required to register as a lobbyist under Chapter
17 305 because of the person's activities for compensation on behalf
18 of a profession related to the operation of the office.

19 SECTION 1.06. Subchapter A, Chapter 481, Government Code,
20 is amended by adding Section 481.0045 to read as follows:

21 Sec. 481.0045. NEGOTIATED RULEMAKING AND ALTERNATIVE
22 DISPUTE RESOLUTION POLICY. (a) The office shall develop and
23 implement a policy to encourage the use of:

24 (1) negotiated rulemaking procedures under Chapter
25 2008 for the adoption of office rules; and

26 (2) appropriate alternative dispute resolution
27 procedures under Chapter 2009 to assist in the resolution of

1 internal and external disputes under the office's jurisdiction.

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

6 (c) The office shall designate a trained person to:

7 (1) coordinate the implementation of the policy
8 adopted under Subsection (a);

9 (2) serve as a resource for any training needed to
10 implement the procedures for negotiated rulemaking or alternative
11 dispute resolution; and

12 (3) collect data concerning the effectiveness of those
13 procedures, as implemented by the office.

14 SECTION 1.07. The heading to Section 481.005, Government
15 Code, is amended to read as follows:

16 Sec. 481.005. EXECUTIVE DIRECTOR; [~~GOVERNING BOARD~~]
17 DUTIES.

18 SECTION 1.08. Subsections (a), (c), and (d), Section
19 481.005, Government Code, are amended to read as follows:

20 (a) The governor [~~governing board~~] shall appoint [~~employ~~]
21 an executive director of the office [~~department~~] who serves at the
22 pleasure of the governor [~~governing board~~].

23 (c) The executive director shall manage the affairs of the
24 office [~~department~~] under the direction of the governor [~~governing~~
25 ~~board. The executive director shall provide administrative support~~
26 ~~to the members of the governing board that is necessary for the~~
27 ~~performance of the functions of the members]~~.

1 (d) The executive director [~~members of the governing board~~]
2 shall direct the activities of the office [~~department~~] and, in
3 performing that duty, shall establish policy, adopt rules, evaluate
4 the implementation of new legislation that affects the office's
5 [~~department's~~] duties, review and comment on the office's
6 [~~department's~~] budget, prepare an annual report of the office's
7 [~~department's~~] activities, conduct investigations and studies, and
8 develop long-range plans for the future goals and needs of the
9 office [~~department. The members of the policy board may not be~~
10 ~~involved in the daily operation of the department~~].

11 SECTION 1.09. Subchapter A, Chapter 481, Government Code,
12 is amended by adding Section 481.0066 to read as follows:

13 Sec. 481.0066. AEROSPACE AND AVIATION OFFICE. (a) The
14 office shall establish and maintain an aerospace and aviation
15 office.

16 (b) The office may hire a director of the aerospace and
17 aviation office and staff as necessary to perform the duties of the
18 aerospace and aviation office under this section.

19 (c) The aerospace and aviation office shall encourage
20 economic development in this state by fostering the growth and
21 development of aerospace and aviation industries in Texas.

22 (d) The aerospace and aviation office shall:

23 (1) analyze space-related and aviation-related
24 research currently conducted in this state and may conduct
25 activities designed to further that research;

26 (2) analyze the state's economic position in the
27 aerospace and aviation industries;

1 (3) develop short-term and long-term business
2 strategies as part of an industry-specific strategic plan to
3 promote the retention, development, and expansion of aerospace and
4 aviation industry facilities in the state that is consistent with
5 and complementary of the office strategic plan;

6 (4) make specific recommendations to the legislature
7 and the governor regarding the promotion of those industries;

8 (5) act as a liaison with other state and federal
9 entities with related economic, educational, and defense
10 responsibilities to support the marketing of the state's aerospace
11 and aviation capabilities;

12 (6) provide technical support and expertise to the
13 state and to local spaceport authorities regarding aerospace and
14 aviation business matters; and

15 (7) be responsible for the promotion and development
16 of spaceports in this state.

17 (e) The governor shall appoint an aerospace and aviation
18 advisory committee consisting of seven qualified members to assist
19 in the state's economic development efforts to recruit and retain
20 aerospace and aviation jobs and investment. The committee shall
21 advise the governor on the recruitment and retention of aerospace
22 and aviation jobs and investment. Members of the committee may not
23 receive compensation for serving on the committee.

24 SECTION 1.10. Subchapter A, Chapter 481, Government Code,
25 is amended by adding Section 481.0067 to read as follows:

26 Sec. 481.0067. SMALL BUSINESS ADVOCATE. (a) The executive
27 director shall designate an individual as the small business

1 advocate.

2 (b) To be eligible to serve as the small business advocate,
3 a person must have demonstrated a strong commitment to and
4 involvement in small business efforts.

5 (c) The small business advocate shall:

6 (1) serve as the principal focal point in this state
7 for assisting small and historically underutilized businesses;

8 (2) assist small and historically underutilized
9 businesses by identifying:

10 (A) conflicting state policy goals and state
11 agency rules that may inhibit small and historically underutilized
12 business development;

13 (B) financial barriers for those businesses; and

14 (C) sources of financial assistance for those
15 businesses;

16 (3) provide assistance to small and historically
17 underutilized businesses in complying with federal, state, and
18 local laws; and

19 (4) perform research, studies, and analyses of matters
20 affecting the interests of small and historically underutilized
21 businesses.

22 SECTION 1.11. Subchapter A, Chapter 481, Government Code,
23 is amended by adding Section 481.0069 to read as follows:

24 Sec. 481.0069. SPACEPORT TRUST FUND. (a) In this section:

25 (1) "Reusable launch vehicle" means a vehicle intended
26 for repeated use that:

27 (A) is built to operate in or place a payload into

1 space; or

2 (B) is a suborbital rocket.

3 (2) "Spaceport" has the meaning assigned by Section
4 4D(a), Development Corporation Act of 1979 (Article 5190.6,
5 Vernon's Texas Civil Statutes), as added by Chapter 1537, Acts of
6 the 76th Legislature, Regular Session, 1999.

7 (b) The spaceport trust fund is created as a trust fund
8 outside the treasury with the comptroller and shall be administered
9 by the office under this section and rules adopted by the office.

10 (c) The spaceport trust fund consists of money from:

11 (1) gifts, grants, or donations to the office for the
12 development of spaceport infrastructure; and

13 (2) any other source designated by the legislature.

14 (d) Money in the spaceport trust fund may not be spent
15 unless the office certifies to the comptroller that:

16 (1) a viable business entity has been established
17 that:

18 (A) has a business plan that demonstrates that
19 the entity has available the financial, managerial, and technical
20 expertise and capability necessary to launch and land a reusable
21 launch vehicle; and

22 (B) has committed to locating its facilities at a
23 spaceport in this state;

24 (2) a development corporation for spaceport
25 facilities created under Section 4D, Development Corporation Act of
26 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as added by
27 Chapter 1537, Acts of the 76th Legislature, Regular Session, 1999,

1 has established a development plan for the spaceport project and
2 has secured at least 90 percent of the funding required for the
3 project; and

4 (3) the spaceport or launch operator has obtained the
5 appropriate Federal Aviation Administration license.

6 (e) Money in the spaceport trust fund may be used only to pay
7 expenditures for the development of infrastructure necessary or
8 useful for establishing a spaceport. The office may contract with a
9 development corporation for spaceport facilities for the
10 infrastructure development.

11 (f) The office may invest, reinvest, and direct the
12 investment of any available money in the spaceport trust fund.
13 Money in the fund may be invested in the manner that state funds may
14 be invested under Section 404.024.

15 SECTION 1.12. Section 481.008, Government Code, is amended
16 to read as follows:

17 Sec. 481.008. AUDIT. (a) The financial transactions of
18 the office [~~department~~] are subject to audit by:

19 (1) the state auditor in accordance with Chapter 321;

20 or

21 (2) a private auditing firm.

22 (b) The state auditor shall inform the executive director
23 [~~presiding officer of the governing board~~] when a financial audit
24 of the office [~~department~~] is not included in the audit plan for the
25 state for a fiscal year. The executive director [~~governing board~~]
26 shall ensure that the office [~~department~~] is audited under
27 Subsection (a)(2) during those fiscal years.

1 SECTION 1.13. Section 481.010, Government Code, is amended
2 by amending Subsections (a), (b), (e), and (f) and adding
3 Subsection (i) to read as follows:

4 (a) The executive director shall employ personnel necessary
5 for the performance of office [~~department~~] functions. The equal
6 employment opportunity officer and the internal auditor of the
7 office of the governor shall serve the same functions for the office
8 as they serve for the office of the governor [~~In addition to other~~
9 ~~personnel, the executive director shall employ a human rights~~
10 ~~officer and an internal auditor~~]. The internal auditor shall
11 report directly to the governor [~~governing board~~] and may consult
12 with the executive director or the executive director's designee.

13 (b) The executive director or the executive director's
14 designee shall provide to office [~~governing board members and~~
15 ~~department~~] employees, as often as necessary, information
16 regarding their qualifications for [~~office or~~] employment under
17 this chapter and their responsibilities under applicable laws
18 relating to standards of conduct for state [~~officers or~~] employees.

19 (e) The executive director or the executive director's
20 designee shall develop a system of annual performance evaluations.
21 All merit pay for office [~~department~~] employees must be based on the
22 system established under this subsection.

23 (f) The executive director or the executive director's
24 designee shall prepare and maintain a written policy statement to
25 assure implementation of a program of equal employment opportunity
26 under which all personnel transactions are made without regard to
27 race, color, disability, sex, religion, age, or national origin.

1 The policy statement must include:

2 (1) personnel policies, including policies relating
3 to recruitment, evaluation, selection, appointment, training, and
4 promotion of personnel that are in compliance with requirements of
5 the Commission on Human Rights;

6 (2) a comprehensive analysis of the office
7 [~~department~~] work force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the office [~~department~~] work force of all
10 persons for whom federal or state guidelines encourage a more
11 equitable balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (i) The executive director or the executive director's
15 designee shall provide to office employees information and training
16 on the benefits and methods of participation in the state employee
17 incentive program.

18 SECTION 1.14. Section 481.011, Government Code, is amended
19 to read as follows:

20 Sec. 481.011. FISCAL REPORT. The executive director shall
21 file annually with the governor and the presiding officer of each
22 house of the legislature a complete and detailed written report
23 accounting for all funds received and disbursed by the office
24 [~~department~~] during the preceding fiscal year. The annual report
25 must be in the form and reported in the time provided by the General
26 Appropriations Act.

27 SECTION 1.15. Section 481.012, Government Code, is amended

1 to read as follows:

2 Sec. 481.012. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

3 (a) The office [~~department~~] shall prepare information of public
4 interest describing the functions of the office [~~department~~] and
5 the office's [~~department's~~] procedures by which complaints are
6 filed with and resolved by the office [~~department~~]. The office
7 [~~department~~] shall make the information available to the public and
8 appropriate state agencies. The office shall provide to the person
9 filing the complaint and to each person who is a subject of the
10 complaint a copy of the office's policies and procedures relating
11 to complaint investigation and resolution.

12 (b) The office [~~department~~] shall keep an information file
13 about each complaint filed with the office [~~department~~] that the
14 office [~~department~~] has authority to resolve. The file must
15 include:

- 16 (1) the name of the person who filed the complaint;
17 (2) the date the complaint is received by the office;
18 (3) the subject matter of the complaint;
19 (4) the name of each person contacted in relation to
20 the complaint;
21 (5) a summary of the results of the review or
22 investigation of the complaint; and
23 (6) an explanation of the reason the file was closed,
24 if the office closed the file without taking action other than to
25 investigate the complaint.

26 (c) If a written complaint is filed with the office
27 [~~department~~] that the office [~~department~~] has authority to resolve,

1 the office [~~department~~], at least quarterly and until final
2 disposition of the complaint, shall notify the parties to the
3 complaint of the status of the complaint unless the notice would
4 jeopardize an undercover investigation.

5 (d) [~~(c)~~] The office [~~governing board~~] shall prepare and
6 maintain a written plan that describes how a person who does not
7 speak English can be provided reasonable access to the office's
8 [~~department's~~] programs. The office [~~governing board~~] shall also
9 comply with federal and state laws for program and facility
10 accessibility.

11 (e) [~~(d)~~] The executive director [~~governing board~~] by rule
12 shall establish methods by which consumers and service recipients
13 are notified of the name, mailing address, and telephone number of
14 the office [~~department~~] for the purpose of directing complaints to
15 the office [~~department~~].

16 SECTION 1.16. The heading to Subchapter B, Chapter 481,
17 Government Code, is amended to read as follows:

18 SUBCHAPTER B. GENERAL POWERS AND DUTIES OF OFFICE [~~DEPARTMENT~~]

19 SECTION 1.17. Section 481.021, Government Code, is amended
20 to read as follows:

21 Sec. 481.021. GENERAL POWERS OF OFFICE [~~DEPARTMENT~~].

22 (a) The office [~~department~~] may:

23 (1) adopt and enforce rules necessary to carry out
24 this chapter;

25 (2) adopt and use an official seal;

26 (3) solicit and accept gifts, grants, or loans from
27 and contract with any entity;

1 (4) [~~sue and be sued,~~
2 [~~(5)~~] acquire and convey property or an interest in
3 property;

4 (5) [~~(6)~~] procure insurance and pay premiums on
5 insurance of any type, in accounts, and from insurers as the office
6 [~~department~~] considers necessary and advisable to accomplish any of
7 the office's [~~department's~~] purposes;

8 (6) [~~(7)~~] hold patents, copyrights, trademarks, or
9 other evidence of protection or exclusivity issued under the laws
10 of the United States, any state, or any nation and may enter into
11 license agreements with any third parties for the receipt of fees,
12 royalties, or other monetary or nonmonetary value;

13 (7) [~~(8)~~] sell advertisements in any medium; and

14 (8) [~~(9)~~] exercise any other power necessary to carry
15 out this chapter.

16 (b) Except as otherwise provided by this chapter, money paid
17 to the office [~~department~~] under this chapter shall be deposited in
18 the state treasury.

19 (c) The office [~~department~~] shall deposit contributions
20 from private sources in a separate fund kept and held in escrow and
21 in trust by the comptroller for and on behalf of the office
22 [~~department~~] as funds held outside the treasury under Section
23 404.073, and the money contributed shall be used to carry out the
24 purposes of the office [~~department~~] and, to the extent possible,
25 the purposes specified by the donors. The comptroller may invest
26 and reinvest the money, pending its use, in the fund in investments
27 authorized by law for state funds that the comptroller considers

1 appropriate.

2 SECTION 1.18. Section 481.022, Government Code, is amended
3 to read as follows:

4 Sec. 481.022. GENERAL DUTIES OF OFFICE [~~DEPARTMENT~~]. The
5 office [~~department~~] shall:

6 (1) market and promote the state as a premier business
7 location and tourist destination;

8 (2) facilitate the location, expansion, and retention
9 of domestic and international business investment to the state;

10 [~~(2) provide statewide toll-free information and~~
11 ~~referrals for business and community economic development;~~]

12 (3) promote and administer business and community
13 economic development programs and services in the state, including
14 business incentive programs;

15 (4) provide to businesses and communities in the state
16 assistance with exporting products and services to international
17 markets;

18 (5) serve as a central source of economic research and
19 information [~~promote the state as a premier tourist and business~~
20 ~~travel destination]; and~~

21 (6) establish a statewide strategy to address economic
22 growth and quality of life issues, a component of which is based on
23 the identification and development of industry clusters [~~provide~~
24 ~~businesses and local communities with timely and useful research~~
25 ~~and data services;~~

26 [~~(7) aggressively market and promote the business~~
27 ~~climate in the state and the state economic development business~~

1 ~~assistance programs and services through the use of available media~~
2 ~~and resources, including the Internet; and~~

3 ~~[(8) seek funding of the department programs and~~
4 ~~activities from federal, state, and private sources].~~

5 SECTION 1.19. Subsection (a), Section 481.023, Government
6 Code, is amended to read as follows:

7 (a) The office ~~[department]~~ shall perform the
8 administrative duties prescribed under:

9 (1) Chapter 1433; and

10 (2) the Development Corporation Act of 1979 (Article
11 5190.6, Vernon's Texas Civil Statutes).

12 SECTION 1.20. Subsections (a), (e), and (f), Section
13 481.024, Government Code, are amended to read as follows:

14 (a) The Texas Economic Development Corporation on behalf of
15 the state shall carry out the public purposes of this chapter. The
16 creation of the corporation does not limit or impair the rights,
17 powers, and duties of the office ~~[department]~~ provided by this
18 chapter. The corporate existence of the Texas Economic Development
19 Corporation begins on the issuance of a certificate of
20 incorporation by the secretary of state. The governor shall
21 appoint ~~[members of the governing board serve ex officio as]~~ the
22 board of directors of the corporation. The governor or the
23 governor's designee and the executive director serve as nonvoting,
24 ex officio members of the board. The corporation has the powers and
25 is subject to the limitations provided for the office ~~[department]~~
26 by this chapter in carrying out the public purposes of this chapter.
27 The corporation has the rights and powers of a nonprofit

1 corporation incorporated under the Texas Non-Profit Corporation
2 Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)
3 except to the extent inconsistent with this section. The
4 corporation may contract with the office [~~department~~] and with bond
5 counsel, financial advisors, or underwriters as its board of
6 directors considers necessary.

7 (e) If the board of directors by resolution determines that
8 the purposes for which the corporation was formed have been
9 substantially complied with and that all bonds issued by the
10 corporation have been fully paid, the board of directors shall
11 dissolve the corporation. On dissolution, the title to all funds
12 and properties then owned by the corporation shall be transferred
13 to the office [~~department~~].

14 (f) The Texas Economic Development Corporation and any
15 other corporation whose charter specifically dedicates the
16 corporation's activities to the benefit of the office or the Texas
17 Department of Economic Development or its predecessor agency shall
18 file an annual report of the financial activity of the corporation.
19 The annual report shall be filed prior to the 90th day after the
20 last day for the corporation's fiscal year and shall be prepared in
21 accordance with generally accepted accounting principles. The
22 report must include a statement of support, revenue, and expenses
23 and change in fund balances, a statement of functional expenses,
24 and balance sheets for all funds.

25 SECTION 1.21. Section 481.025, Government Code, is amended
26 to read as follows:

27 Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY

1 PROGRAM. The office [~~department~~] is the agency of this state
2 responsible for administering the Empowerment Zone and Enterprise
3 Community grant program in this state. The bank [~~department~~] shall
4 cooperate with appropriate federal and local agencies as necessary
5 to administer the grant program.

6 SECTION 1.22. Subchapter B, Chapter 481, Government Code,
7 is amended by adding Section 481.026 to read as follows:

8 Sec. 481.026. TECHNOLOGICAL SOLUTIONS. The office shall
9 develop and implement a policy that requires the executive director
10 and the staff of the office to research and propose appropriate
11 technological solutions to improve the ability of the office to
12 perform its mission. The technological solutions must include
13 measures to ensure that the public is able to easily find
14 information about the office through the Internet and that persons
15 who have a reason to use the office's services are able to use the
16 Internet to interact with the office and to access any service that
17 can be provided effectively through the Internet. The policy shall
18 also ensure that the proposed technological solutions are
19 cost-effective and developed through the office's planning
20 processes.

21 SECTION 1.23. Subsections (a) through (e), Section 481.027,
22 Government Code, are amended to read as follows:

23 (a) The office [~~department~~] shall maintain and operate
24 offices in foreign countries for the purposes of promoting
25 investment that generates jobs in Texas, exporting of Texas
26 products, tourism, and international relations for Texas. The
27 foreign offices shall be named "The State of Texas" offices. To the

1 extent permitted by law, other state agencies that conduct business
2 in foreign countries may place staff in the foreign offices
3 established by the office [~~department~~] and share the overhead and
4 operating expenses of the foreign offices. Other state agencies
5 and the office [~~department~~] may enter interagency contracts for
6 this purpose. Chapter 771 does not apply to those contracts. Any
7 purchase for local procurement or contract in excess of \$5,000
8 shall be approved by the executive director prior to its execution.

9 (b) The foreign offices shall be accessible to Texas-based
10 institutions of higher education and their nonprofit affiliates for
11 the purposes of fostering Texas science, technology, and research
12 development, international trade and investment, and cultural
13 exchange. The office [~~department~~] and the institutions may enter
14 contracts for this purpose. Chapter 771 does not apply to those
15 contracts.

16 (c) The office [~~department~~] shall maintain regional offices
17 in locations specified in the General Appropriations Act.

18 (d) The office [~~department~~] may collect fees for the use of
19 the foreign offices from public and private entities except that
20 any payments by a state agency are governed by any interagency
21 contract under Subsection (a). The fees may be used only to expand,
22 develop, and operate foreign offices under this section.

23 (e) Chapter 2175 applies to the operation and maintenance of
24 the foreign offices. No other provisions of Subtitle D, Title 10,
25 apply to the operation and maintenance of the foreign offices, or to
26 transactions of the office [~~department~~] that are authorized by this
27 section.

1 SECTION 1.24. Section 481.029, Government Code, is amended
2 to read as follows:

3 Sec. 481.029. COST RECOVERY. The office [~~department~~] shall
4 recover the cost of providing direct technical assistance,
5 management training services, and other services to businesses and
6 communities when reasonable and practical.

7 SECTION 1.25. Subchapter B, Chapter 481, Government Code,
8 is amended by adding Sections 481.0295 and 481.0296 to read as
9 follows:

10 Sec. 481.0295. IDENTIFICATION OF INDUSTRY CLUSTERS.

11 (a) The office shall work with industry associations and
12 organizations and key state agencies to identify regional and
13 statewide industry clusters.

14 (b) The activities of the office in identifying industry
15 clusters may include:

16 (1) conducting focus group discussions, facilitating
17 meetings, and conducting studies to identify:

18 (A) members of an industry cluster;

19 (B) the general economic state of the industry
20 cluster; and

21 (C) issues of common concern in the industry
22 cluster;

23 (2) supporting the formation of industry cluster
24 associations, publishing industry cluster association directories,
25 and encouraging the entry of new members into the industry cluster;
26 and

27 (3) providing methods for electronic communication

1 and information dissemination among members of the industry
2 clusters.

3 (c) The office shall identify an industry cluster as a
4 targeted sector if the office determines that the development of
5 the industry cluster is a high priority.

6 (d) The office shall work with targeted sectors, private
7 sector organizations, key state agencies, local governments, local
8 economic development organizations, and higher education and
9 training institutions to develop strategies to strengthen the
10 competitiveness of industry clusters. The strategies shall be
11 designed to:

- 12 (1) diversify the economy;
13 (2) facilitate technology transfer; and
14 (3) increase value-added production.

15 (e) The activities of the office to assist the development
16 of a targeted sector may include:

17 (1) conducting focus group discussions, facilitating
18 meetings, and conducting studies to identify:

- 19 (A) members of a targeted sector;
20 (B) the general economic state of the sector; and
21 (C) issues of common concern in the sector;

22 (2) supporting the formation of industry
23 associations, publishing industry association directories, and
24 creating or expanding the activities of the industry associations;

25 (3) assisting in the formation of flexible networks
26 between persons interested in the development of the targeted
27 sector by providing:

1 (A) employees of the office or private sector
2 consultants trained to organize and implement flexible networks;
3 and

4 (B) funding for potential flexible network
5 participants to organize and implement a flexible network;

6 (4) helping to establish research consortia;

7 (5) facilitating training and education programs
8 conducted jointly by sector members;

9 (6) promoting cooperative market development
10 activities;

11 (7) analyzing the need for, feasibility of, and cost
12 of establishing product certification and testing facilities and
13 services; and

14 (8) providing for methods of electronic communication
15 and information dissemination among sector members to facilitate
16 network or industry cluster activity.

17 (f) The office shall, on a continuing basis as determined by
18 the office, evaluate:

19 (1) the effectiveness of the services provided to
20 industry clusters, using information gathered at regional and
21 statewide levels; and

22 (2) the potential return to the state from devoting
23 additional resources to the economic development of a targeted
24 sector and devoting resources to additional targeted sectors.

25 (g) The office shall use information gathered in each region
26 for which the office identifies industry clusters to:

27 (1) formulate strategies to promote the economic

1 development of targeted sectors; and

2 (2) designate new targeted sectors.

3 Sec. 481.0296. ADVANCED TECHNOLOGY INDUSTRIES. (a) The
4 office shall coordinate state efforts to attract, develop, or
5 retain technology industries in this state in certain sectors,
6 including:

7 (1) the semiconductor industry;

8 (2) information and computer technology;

9 (3) microelectromechanical systems;

10 (4) manufactured energy systems;

11 (5) nanotechnology; and

12 (6) biotechnology.

13 (b) The office shall:

14 (1) recommend to the governor actions to promote
15 economic development in the area of advanced technology;

16 (2) identify and assess specific economic development
17 opportunities; and

18 (3) engage in outreach to advanced technology
19 industries, including a joint venture created under the National
20 Cooperative Research and Production Act of 1993 (15 U.S.C. Section
21 4301 et seq.), as amended, that is exempt from federal taxation as
22 an organization described by Section 501(c)(6), Internal Revenue
23 Code of 1986, as amended.

24 SECTION 1.26. Section 481.043, Government Code, is amended
25 to read as follows:

26 Sec. 481.043. GENERAL POWERS AND DUTIES RELATING TO
27 INTERNATIONAL TRADE. The office [~~department~~] shall:

1 (1) provide businesses in the state with technical
2 assistance, information, and referrals related to the export of
3 products and services, including export finance and international
4 business practices;

5 (2) coordinate the representation of exporters in the
6 state at international trade shows, missions, marts, seminars, and
7 other appropriate promotional venues;

8 (3) cooperate and act in conjunction with other public
9 and private organizations to promote and advance export trade
10 activities in this state; and

11 (4) disseminate trade leads to exporters in the state
12 through the use of the Internet and other available media.

13 SECTION 1.27. Section 481.047, Government Code, is amended
14 to read as follows:

15 Sec. 481.047. CONFIDENTIALITY. Information collected by
16 the office [~~department~~] concerning the identity, background,
17 finance, marketing plans, trade secrets, or other commercially
18 sensitive information of a lender or export business is
19 confidential unless the lender or export business consents to
20 disclosure of the information.

21 SECTION 1.28. Section 481.0725, Government Code, is amended
22 to read as follows:

23 Sec. 481.0725. GENERAL POWERS AND DUTIES. The office
24 [~~department~~] shall:

25 (1) [~~focus business recruitment, expansion, and~~
26 ~~retention efforts on industry sectors with the highest potential~~
27 ~~for creating high-wage, high-skill jobs,~~

1 ~~(2)~~ provide businesses with site selection
2 assistance and communities with investment leads;

3 (2) ~~(3)~~ develop a comprehensive business
4 recruitment marketing plan;

5 (3) ~~(4)~~ participate in international and domestic
6 trade shows, trade missions, marketing trips, and seminars; and

7 (4) ~~(5)~~ produce and disseminate information through
8 the use of available media and resources, including the Internet,
9 to promote business assistance programs and the overall business
10 climate in the state.

11 SECTION 1.29. Subsection (c), Section 481.073, Government
12 Code, is amended to read as follows:

13 (c) The office ~~[department]~~ may:

14 (1) purchase, discount, sell, assign, negotiate, and
15 otherwise dispose of notes, bonds, and other evidences of
16 indebtedness incurred to finance or refinance projects whether
17 secured or unsecured;

18 (2) administer or participate in programs established
19 by another person to finance or refinance projects; and

20 (3) acquire, hold, invest, use, and dispose of the
21 office's ~~[department's]~~ revenues, funds, and money received from
22 any source under this subchapter and the proceedings authorizing
23 the bonds issued under this subchapter, subject only to the
24 provisions of the Texas Constitution, this subchapter, and any
25 covenants relating to the office's ~~[department's]~~ bonds in classes
26 of investments that the executive director ~~[board]~~ determines.

27 SECTION 1.30. Section 481.075, Government Code, is amended

1 to read as follows:

2 Sec. 481.075. PROGRAM RULES. (a) The executive director
3 ~~[department]~~ shall adopt rules to establish criteria for
4 determining which users may participate in programs established by
5 the office ~~[department]~~ under this subchapter. The office
6 ~~[department]~~ shall adopt collateral or security requirements to
7 ensure the full repayment of any loan, lease, or installment sale
8 and the solvency of any program implemented under this subchapter.
9 The executive director ~~[governing board]~~ must approve all leases
10 and sale and loan agreements made under this subchapter ~~[except~~
11 ~~that the governing board may delegate this approval authority to~~
12 ~~the executive director]~~.

13 (b) Users participating in the programs established under
14 this subchapter shall pay the costs of applying for, participating
15 in, and administering and servicing the program in amounts that the
16 office ~~[department]~~ considers reasonable and necessary.

17 SECTION 1.31. Subdivision (2), Section 481.121, Government
18 Code, is amended to read as follows:

19 (2) "Permit office ~~[Office]~~" means the Texas Economic
20 Development and Tourism Office's ~~[department's]~~ business permit
21 office.

22 SECTION 1.32. Section 481.122, Government Code, is amended
23 to read as follows:

24 Sec. 481.122. CREATION. The business permit office is an
25 office within the Texas Economic Development and Tourism Office
26 ~~[department]~~.

27 SECTION 1.33. Section 481.123, Government Code, is amended

1 to read as follows:

2 Sec. 481.123. DUTIES. The permit office shall:

3 (1) provide comprehensive information on permits
4 required for business enterprises in the state and make that
5 information available to applicants and other persons;

6 (2) assist applicants in obtaining timely and
7 efficient permit review and in resolving issues arising from the
8 review;

9 (3) facilitate contacts between applicants and state
10 agencies responsible for processing and reviewing permit
11 applications;

12 (4) assist applicants in the resolution of outstanding
13 issues identified by state agencies, including delays experienced
14 in permit review;

15 (5) develop comprehensive application procedures to
16 expedite the permit process;

17 (6) compile a comprehensive list of all permits
18 required of a person desiring to establish, operate, or expand a
19 business enterprise in the state;

20 (7) encourage and facilitate the participation of
21 federal and local government agencies in permit coordination;

22 (8) make recommendations for eliminating,
23 consolidating, simplifying, expediting, or otherwise improving
24 permit procedures affecting business enterprises by requesting
25 that the state auditor, with the advice and support of the permit
26 office, initiate a business permit reengineering review process
27 involving all state agencies;

1 (9) develop and implement an outreach program to
2 publicize and make small business entrepreneurs and others aware of
3 services provided by the permit office;

4 (10) adopt rules, procedures, instructions, and forms
5 required to carry out the functions, powers, and duties of the
6 permit office under this subchapter; and

7 (11) except as provided in Section 481.129, complete
8 the implementation of the business permit review process on or
9 before September 1, 1994, and provide all recommended statutory
10 changes as needed to the legislature on or before January 1, 1995.

11 SECTION 1.34. Subsections (a) through (d), (f), and
12 (h), Section 481.124, Government Code, are amended to read as
13 follows:

14 (a) The permit office shall develop and by rule implement a
15 comprehensive application procedure to expedite the identification
16 and processing of required permits. The permit office shall
17 specify the permits to which the comprehensive application
18 procedure applies. A comprehensive application must be made on a
19 form prescribed by the permit office. The permit office shall
20 consult with affected agencies in designing the form to ensure that
21 the form provides the necessary information to allow agencies to
22 identify which permits may be needed by the applicant. The form
23 must be designed primarily for the convenience of an applicant who
24 is required to obtain multiple permits and must provide for concise
25 and specific information necessary to determine which permits are
26 or may be required of the particular applicant.

27 (b) Use of the comprehensive application procedure by the

1 applicant is optional. On request the permit office shall assist an
2 applicant in preparing a comprehensive application, describe the
3 procedures involved, and provide other appropriate information
4 from the comprehensive permit information file.

5 (c) On receipt of a comprehensive application from an
6 applicant, the permit office shall immediately notify in writing
7 each state agency having a possible interest in the proposed
8 business undertaking, project, or activity with respect to permits
9 that are or may be required.

10 (d) Not later than the 25th day after the date of receipt of
11 the notice, the state agency shall specify to the permit office each
12 permit under its jurisdiction that is or may be required for the
13 business undertaking, project, or activity described in the
14 comprehensive application and shall indicate each permit fee to be
15 charged.

16 (f) The permit office shall promptly provide the applicant
17 with application forms and related information for all permits
18 specified by the interested state agencies and shall advise the
19 applicant that the forms are to be completed and submitted to the
20 appropriate state agencies.

21 (h) Each state agency having jurisdiction over a permit to
22 which the comprehensive application procedure applies shall
23 designate an officer or employee to act as permit liaison officer to
24 cooperate with the permit office in carrying out this subchapter.

25 SECTION 1.35. Subsections (a), (b), (d), and (e), Section
26 481.125, Government Code, are amended to read as follows:

27 (a) The permit office shall compile a comprehensive list of

1 all state permits required of a person desiring to operate a
2 business enterprise in the state.

3 (b) To the extent possible, the permit office shall organize
4 the list according to the types of businesses affected and shall
5 publish the list in a comprehensive permit handbook.

6 (d) The permit office shall periodically update the
7 handbook.

8 (e) The permit office shall make the handbook available to
9 persons interested in establishing a business enterprise, public
10 libraries, educational institutions, and the state agencies listed
11 in the handbook.

12 SECTION 1.36. Section 481.126, Government Code, is amended
13 to read as follows:

14 Sec. 481.126. ASSISTANCE OF OTHER STATE AGENCIES. Each
15 state agency, on request of the permit office, shall provide
16 assistance, services, facilities, and data to enable the permit
17 office to carry out its duties. An agency is not required to
18 provide information made confidential by a constitution, statute,
19 or judicial decision.

20 SECTION 1.37. Subsections (a), (c), and (d), Section
21 481.127, Government Code, are amended to read as follows:

22 (a) Each state agency required to review, approve, or grant
23 permits for business undertakings, projects, or activities shall
24 report to the permit office in a form prescribed by the permit
25 office on each type of review, approval, or permit administered by
26 the agency.

27 (c) The permit office shall prepare an information file on

1 state agency permit requirements and shall develop methods for
2 maintenance, revision, update, and ready access. The permit office
3 shall provide comprehensive permit information based on that file.

4 (d) The permit office may prepare and distribute
5 publications, guides, and other materials to serve the convenience
6 of permit applicants and explain permit requirements affecting
7 business, including requirements involving multiple permits or
8 regulation by more than one state agency.

9 SECTION 1.38. Section 481.128, Government Code, is amended
10 to read as follows:

11 Sec. 481.128. NO CHARGES FOR SERVICES. The permit office
12 shall provide its services without charge.

13 SECTION 1.39. Section 481.129, Government Code, is amended
14 to read as follows:

15 Sec. 481.129. ENVIRONMENTAL PERMITS. The permit office
16 shall consult and cooperate with the Natural Resource Conservation
17 Commission in conducting any studies on permits issued by the
18 Natural Resource Conservation Commission. The Natural Resource
19 Conservation Commission shall cooperate fully in the study and
20 analysis of the procedures involving the issuance of permits by
21 that commission and shall, in any report issued, evaluate all
22 alternatives for improving the process pursuant to the permit
23 office's responsibilities under Section 481.123. The permit office
24 and the Natural Resource Conservation Commission shall jointly
25 submit any report required under Section 481.123.

26 SECTION 1.40. Subsections (a), (d), and (e), Section
27 481.167, Government Code, are amended to read as follows:

1 (a) The office [~~department~~] shall establish the Texas
2 Business and Community Economic Development Clearinghouse to
3 provide information and assistance to businesses and communities in
4 the state through the use of a statewide toll-free telephone
5 service.

6 (d) The office [~~department~~] shall obtain from other state
7 agencies appropriate information needed by the office [~~department~~]
8 to carry out its duties under this subchapter.

9 (e) The comptroller shall assist the office [~~department~~] in
10 furthering the purposes of this subchapter by allowing the office
11 [~~department~~] to use the field offices and personnel of the
12 comptroller to disseminate brochures, documents, and other
13 information useful to businesses in the state.

14 SECTION 1.41. Section 481.172, Government Code, as amended
15 by Chapters 1041 and 1275, Acts of the 75th Legislature, Regular
16 Session, 1997, is amended to read as follows:

17 Sec. 481.172. DUTIES. (a) The office [~~department~~] shall:

18 (1) as the primary state governmental entity
19 responsible for out-of-state tourism marketing and promotion
20 efforts, promote and advertise within the United States and in
21 foreign countries, by radio, television, newspaper, the Internet,
22 and other means considered appropriate, tourism in this state by
23 non-Texans, including persons from foreign countries, and
24 distribute promotional materials through appropriate distribution
25 channels;

26 (2) represent the state in domestic and international
27 travel trade shows, trade missions, and seminars;

1 (3) encourage travel by Texans to this state's scenic,
2 historical, cultural, natural, agricultural, educational,
3 recreational, and other attractions;

4 (4) conduct a public relations campaign to create a
5 responsible and accurate national and international image of this
6 state;

7 (5) use current market research to develop a tourism
8 marketing plan to increase travel to the state by domestic and
9 international visitors;

10 (6) develop methods to attract tourist attractions to
11 the state;

12 (7) assist communities to develop tourist
13 attractions; ~~and~~

14 (8) not later than December 31, 2003, enter into a
15 memorandum of understanding ~~[cooperate fully]~~ with the Parks and
16 Wildlife Department, the Texas Department of Transportation, the
17 Texas Historical Commission, and the Texas Commission on the Arts
18 to direct the efforts of those agencies in all matters relating to
19 ~~[promotion of]~~ tourism; ~~[-]~~

20 (9) [(8)] promote and encourage the horse racing and
21 greyhound racing industry, if funds are appropriated for the
22 promotion or encouragement; and

23 (10) promote the sports industry and related
24 industries in this state, including promoting this state as a host
25 for national and international amateur athletic competition and
26 promoting sports or fitness programs for the residents of this
27 state, if funds are appropriated for the promotion.

1 (b) A memorandum of understanding entered into under
2 Subsection (a)(8) shall provide that the office may:

3 (1) strategically direct and redirect each agency's
4 tourism priorities and activities to:

5 (A) most effectively meet consumer demands and
6 emerging travel trends, as established by the latest market
7 research; and

8 (B) minimize duplication of efforts and realize
9 cost savings through economies of scale;

10 (2) require each agency to submit to the office for
11 advance approval:

12 (A) resources, activities, and materials related
13 to the promotion of tourism proposed to be provided by the agency;

14 (B) a plan of action for the agency's proposed
15 tourism activities, not later than June 1 of each year, that
16 includes:

17 (i) priorities identified by the agency
18 that must include marketing, product development, and program
19 development;

20 (ii) the agency's proposed budget for
21 tourism activities; and

22 (iii) measurable goals and objectives of
23 the agency related to the promotion of tourism; and

24 (C) any proposed marketing message, material,
25 logo, slogan, or other communication to be used by the agency in its
26 tourism-related efforts, to assist the office in coordinating
27 tourism-related efforts conducted in this state by the agency and

1 the office and conducted outside of this state by the office;

2 (3) direct the development of an annual strategic
3 tourism plan, including a marketing plan, to increase travel to
4 this state, that:

5 (A) provides the most effective and efficient
6 expenditure of state funds for in-state marketing activities
7 conducted by the agencies and encouraged by the office and
8 out-of-state marketing activities conducted by the office;

9 (B) establishes goals, objectives, and
10 performance measures, including the measurement of the return on
11 the investment made by an agency or the office, for the
12 tourism-related efforts of all state agencies; and

13 (C) is developed not later than September 1 of
14 each year; and

15 (4) direct the agencies to share costs related to
16 administrative support for the state's tourism activities.

17 (c) The promotion of the sports industry and related
18 industries under Subsection (a)(10) may include the establishment
19 by the governor of a Texas Sports Commission composed of volunteers
20 who are knowledgeable about or active in amateur sports.

21 (d) This section does not affect the authority of the State
22 Preservation Board to conduct activities or make expenditures
23 related to tourism or to promote the Bob Bullock Texas State History
24 Museum.

25 SECTION 1.42. Section 481.174, Government Code, is amended
26 to read as follows:

27 Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS.

1 (a) The office [~~department~~] may sell advertisements in travel
2 promotions in any medium.

3 (b) The executive director [~~governing board~~] shall adopt
4 rules to implement the sale of advertisements under Subsection (a),
5 including rules regulating:

6 (1) the cost of advertisements;

7 (2) the type of products or services that may be
8 advertised;

9 (3) the size of advertisements; and

10 (4) refunds on advertisements that are not run.

11 (c) Proceeds from the sale of advertisements shall be
12 deposited in the special account in the general revenue fund that
13 may be used for advertising and marketing activities of the office
14 [~~department~~] as provided by Section 156.251, Tax Code.

15 SECTION 1.43. Section 481.191, Government Code, is amended
16 by amending Subdivision (2) and adding Subdivision (4-a) to read as
17 follows:

18 (2) "Eligible borrower" means:

19 (A) a person who proposes to begin operating a
20 small or medium-sized business in an enterprise zone, as defined by
21 Section 2303.003, or a historically underutilized business;

22 (B) a nonprofit corporation; or

23 (C) a child-care provider.

24 (4-a) "Medium-sized business" means a corporation,
25 partnership, sole proprietorship, or other legal entity that:

26 (A) is domiciled in this state or has at least 51
27 percent of its employees located in this state;

1 (B) is formed to make a profit; and
2 (C) employs 100 or more but fewer than 500
3 full-time employees.

4 SECTION 1.44. Subsections (a), (b), (d), (e), (f), (h), and
5 (i), Section 481.193, Government Code, are amended to read as
6 follows:

7 (a) The bank [~~department~~] shall establish a linked deposit
8 program to encourage commercial lending for the development of:

- 9 (1) small businesses in enterprise zones;
10 (2) historically underutilized businesses;
11 (3) medium-sized businesses;
12 (4) child-care services provided by and activities
13 engaged in in this state by nonprofit organizations; and
14 (5) [~~(4)~~] quality, affordable child-care services in
15 this state.

16 (b) The executive director [~~policy board~~] shall adopt rules
17 for the loan portion of the linked deposit program.

18 (d) After reviewing an application and determining that the
19 applicant is an eligible borrower and is creditworthy, the eligible
20 lending institution shall send the application for a linked deposit
21 loan to the bank [~~department~~].

22 (e) The eligible lending institution shall certify the
23 interest rate applicable to the specific eligible borrower and
24 attach it to the application sent to the bank [~~department~~].

25 (f) After reviewing each linked deposit loan application,
26 the executive director [~~of the department~~] shall approve or deny
27 [~~recommend to the comptroller the acceptance or rejection of~~] the

1 application.

2 (h) Before the placing of a linked deposit, the eligible
3 lending institution and the state, represented by the bank
4 [~~comptroller and the department~~], shall enter into a written
5 deposit agreement containing the conditions on which the linked
6 deposit is made. The deposit agreement must provide that:

7 (1) the comptroller will place the linked deposit not
8 later than the 10th business day after the date on which the
9 agreement is executed;

10 (2) the lending institution will notify the bank
11 [~~comptroller~~] if the borrower to which the deposit is linked
12 defaults on the loan; and

13 (3) [~~(2)~~] in the event of a default the comptroller
14 may withdraw the linked deposit at the direction of the bank.

15 (i) If a lending institution holding linked deposits ceases
16 to be a state depository, the comptroller must [~~may~~] withdraw the
17 linked deposits at the direction of the bank.

18 SECTION 1.45. Subsection (g), Section 481.193, Government
19 Code, as amended by Chapters 891, 1162, and 1423, Acts of the 75th
20 Legislature, Regular Session, 1997, is reenacted and amended to
21 read as follows:

22 (g) After the executive director's approval [~~comptroller's~~
23 ~~acceptance~~] of the application and after the lending institution
24 originates a loan to an eligible borrower, the bank shall authorize
25 the comptroller to [~~shall~~] place a linked deposit with the
26 applicable [~~eligible~~] lending institution for the period of the
27 loan, subject to Subsections (h) and (i). The bank [~~comptroller~~] is

1 not required to maintain the deposit with the lending institution
2 if the loan is extended, renewed, or renegotiated unless the bank
3 approves [~~comptroller accepts~~] a new linked deposit loan
4 application under this section for the loan as modified. Subject to
5 the limitation described by Section 481.197, the comptroller shall
6 [~~may~~] place, at the direction of the bank, a time deposit at an
7 interest rate described by Section 481.192 and may modify the
8 interest rate during the period of the loan, notwithstanding any
9 order of the State Depository Board to the contrary.

10 SECTION 1.46. Subsection (a), Section 481.194, Government
11 Code, is amended to read as follows:

12 (a) On acceptance of its application to receive linked
13 deposits, an eligible lending institution shall loan money to an
14 eligible borrower in accordance with the deposit agreement and this
15 subchapter. The eligible lending institution shall forward a
16 compliance report to the office [~~department~~].

17 SECTION 1.47. Section 481.198, Government Code, is amended
18 to read as follows:

19 Sec. 481.198. MARKETING. (a) The bank [~~department~~] shall
20 promote the linked deposit program established by this subchapter
21 to eligible borrowers and financial institutions that make
22 commercial loans and are depositories of state funds.

23 (b) Not later than January 1 of each odd-numbered year, the
24 office [~~department~~] shall prepare and deliver to the governor,
25 lieutenant governor, speaker of the house of representatives, and
26 clerks of the standing committees of the senate and house of
27 representatives with primary jurisdiction over commerce and

1 economic development a report concerning the bank's [~~department's~~]
2 efforts in promoting the linked deposit program during the
3 preceding two years.

4 SECTION 1.48. Subchapter N, Chapter 481, Government Code,
5 is amended by adding Section 481.199 to read as follows:

6 Sec. 481.199. REPORTS; AUDITS. (a) The office shall
7 submit to the comptroller a quarterly report regarding the linked
8 deposit program.

9 (b) The financial transactions of a linked deposit are
10 subject to audit by the state auditor as provided by Chapter 321.

11 SECTION 1.49. Section 481.211, Government Code, is amended
12 to read as follows:

13 Sec. 481.211. POWERS AND DUTIES. The office [~~department~~]
14 shall:

15 (1) compile and update demographic and economic
16 information on the state;

17 (2) develop and update information products for local
18 communities on community economic development issues and practices
19 that encourage regional cooperation; and

20 (3) compile and disseminate information on economic
21 and industrial development trends and issues, including NAFTA,
22 emerging industries, and patterns of international trade and
23 investment.

24 SECTION 1.50. Section 481.212, Government Code, is amended
25 to read as follows:

26 Sec. 481.212. COMPILATION AND DISTRIBUTION OF DATA AND
27 RESEARCH. (a) To serve as a one-stop center for business-related

1 information, the office [~~department~~] shall obtain from other state
2 agencies and organizations, including the comptroller and the Texas
3 Workforce Commission, business-related statistics and data.

4 (b) To maximize the accessibility of business-related data,
5 the office [~~department~~] shall create a web site to publish
6 business-related information on the Internet. The web site must
7 provide connections to other business-related web sites.

8 (c) The office [~~department~~] may charge a reasonable access
9 fee in connection with this subchapter.

10 SECTION 1.51. Subdivision (9), Section 481.401, Government
11 Code, is amended to read as follows:

12 (9) "Reserve account" means an account established in
13 a participating financial institution on approval of the bank
14 [~~department~~] in which money is deposited to serve as a source of
15 additional revenue to reimburse the financial institution for
16 losses on loans enrolled in the program.

17 SECTION 1.52. Subsections (b) and (c), Section 481.402,
18 Government Code, are amended to read as follows:

19 (b) Appropriations for the implementation and
20 administration of this subchapter [~~, investment earnings, fees~~
21 ~~charged under this subchapter,~~] and any other amounts received by
22 the state under this subchapter shall be deposited in the fund.

23 (c) Money in the fund may be appropriated only to the bank
24 [~~department~~] for use in carrying out the purposes of this
25 subchapter.

26 SECTION 1.53. Section 481.404, Government Code, is amended
27 to read as follows:

1 Sec. 481.404. POWERS OF BANK [~~DEPARTMENT~~] IN ADMINISTERING
2 CAPITAL ACCESS FUND. In administering the fund, the bank
3 [~~department~~] has the powers necessary to carry out the purposes of
4 this subchapter, including the power to:

5 (1) make, execute, and deliver contracts,
6 conveyances, and other instruments necessary to the exercise of its
7 powers;

8 (2) invest money at the bank's [~~department's~~]
9 discretion in obligations determined proper by the bank
10 [~~department~~], and select and use depositories for its money;

11 (3) employ personnel and counsel and pay the persons
12 from money in the fund legally available for that purpose; and

13 (4) impose and collect fees and charges in connection
14 with any transaction and provide for reasonable penalties for
15 delinquent payment of fees or charges.

16 SECTION 1.54. Subsections (a) through (d), Section 481.405,
17 Government Code, are amended to read as follows:

18 (a) The bank [~~department~~] shall establish a capital access
19 program to assist a participating financial institution in making
20 loans to businesses and nonprofit organizations that face barriers
21 in accessing capital.

22 (b) The bank [~~department~~] shall use money in the fund to
23 make a deposit in a participating financial institution's reserve
24 account in an amount specified by this subchapter to be a source of
25 money the institution may receive as reimbursement for losses
26 attributable to loans in the program.

27 (c) The bank [~~department~~] shall determine the eligibility

1 of a financial institution to participate in the program and may set
2 a limit on the number of eligible financial institutions that may
3 participate in the program.

4 (d) To participate in the program, an eligible financial
5 institution must enter into a participation agreement with the bank
6 [~~department~~] that sets out the terms and conditions under which the
7 bank [~~department~~] will make contributions to the institution's
8 reserve account and specifies the criteria for a loan to qualify as
9 a capital access loan.

10 SECTION 1.55. Subsection (a), Section 481.406, Government
11 Code, is amended to read as follows:

12 (a) The executive director [~~policy board~~] shall adopt rules
13 relating to the implementation of the program and any other rules
14 necessary to accomplish the purposes of this subchapter. The rules
15 may:

16 (1) provide for criteria under which a certain line of
17 credit issued by an eligible financial institution to a small or
18 medium-sized business or nonprofit organization qualifies to
19 participate in the program; and

20 (2) authorize a consortium of financial institutions
21 to participate in the program subject to common underwriting
22 guidelines.

23 SECTION 1.56. Subsections (a), (b), and (d), Section
24 481.407, Government Code, are amended to read as follows:

25 (a) Except as otherwise provided by this subchapter, the
26 bank [~~department~~] may not determine the recipient, amount, or
27 interest rate of a capital access loan or the fees or other

1 requirements related to the loan.

2 (b) A loan is not eligible to be enrolled under this
3 subchapter if the loan is for:

4 (1) construction or purchase of residential housing;

5 (2) simple real estate investments, excluding the
6 development or improvement of commercial real estate occupied by
7 the borrower's business or organization; or

8 (3) [~~refinancing of existing loans not originally~~
9 ~~enrolled under this subchapter; or~~

10 [~~(4)~~] inside bank transactions, as defined by the
11 policy board.

12 (d) A capital access loan may be sold on the secondary
13 market with no recourse to the bank or to the loan loss reserve
14 correspondent to the loan and under conditions as may be determined
15 by the bank [~~department~~].

16 SECTION 1.57. Section 481.408, Government Code, is amended
17 by amending Subsections (a), (c), and (d) and adding Subsection (e)
18 to read as follows:

19 (a) On approval by the bank [~~department~~] and after entering
20 into a participation agreement with the bank [~~department~~], a
21 participating financial institution making a capital access loan
22 shall establish a reserve account. The reserve account shall be
23 used by the institution only to cover any losses arising from a
24 default of a capital access loan made by the institution under this
25 subchapter or as otherwise provided by this subchapter.

26 (c) For each capital access loan made by a financial
27 institution, the institution shall certify to the bank

1 ~~[department]~~, within the period prescribed by the bank
2 ~~[department]~~, that the institution has made a capital access loan,
3 the amount the institution has deposited in the reserve account,
4 including the amount of fees received from the borrower, and, if
5 applicable, that the borrower is financing an enterprise project or
6 is located in or financing a project, activity, or enterprise in an
7 area designated as an enterprise zone under Chapter 2303.

8 (d) On receipt of a certification made under Subsection (c)
9 and subject to Section 481.409, the bank ~~[department]~~ shall deposit
10 in the institution's reserve account for each capital access loan
11 made by the institution:

12 (1) an amount equal to the amount deposited by the
13 institution for each loan if the institution:

14 (A) has assets of more than \$1 billion; or

15 (B) has previously enrolled loans in the program
16 that in the aggregate are more than \$2 million;

17 (2) an amount equal to 150 percent of the total amount
18 deposited under Subsection (b) for each loan if the institution is
19 not described by Subdivision (1); or

20 (3) notwithstanding Subdivisions (1) and (2), an
21 amount equal to 200 percent of the total amount deposited under
22 Subsection (b) for each loan if:

23 (A) the borrower is financing an enterprise
24 project or is located in or financing a project, activity, or
25 enterprise in an area designated as an enterprise zone under
26 Chapter 2303; ~~[or]~~

27 (B) the borrower is a small or medium-sized

1 ~~[medium-size]~~ business or a nonprofit organization that operates or
2 proposes to operate a day-care center or a group day-care home, as
3 those terms are defined by Section 42.002, Human Resources Code; or

4 (C) the participating financial institution is a
5 community development financial institution, as that term is
6 defined by 12 U.S.C. Section 4702, as amended.

7 (e) A participating financial institution must obtain
8 approval from the bank to withdraw funds from the reserve account.

9 SECTION 1.58. Section 481.409, Government Code, is amended
10 to read as follows:

11 Sec. 481.409. LIMITATIONS ON STATE CONTRIBUTION TO RESERVE
12 ACCOUNT. (a) The amount deposited by the bank ~~[department]~~ into a
13 participating financial institution's reserve account for any
14 single loan recipient may not exceed \$150,000 during a three-year
15 period.

16 (b) The maximum amount the bank ~~[department]~~ may deposit
17 into a reserve account for each capital access loan made under this
18 subchapter is the lesser of \$35,000 or an amount equal to:

19 (1) eight percent of the loan amount if:

20 (A) the borrower is financing an enterprise
21 project or is located in or financing a project, activity, or
22 enterprise in an area designated as an enterprise zone under
23 Chapter 2303; ~~[or]~~

24 (B) the borrower is a small or medium-sized
25 ~~[medium-size]~~ business or a nonprofit organization that operates or
26 proposes to operate a day-care center or a group day-care home, as
27 those terms are defined by Section 42.002, Human Resources Code; or

1 (C) the participating financial institution is a
2 community development financial institution, as that term is
3 defined by 12 U.S.C. Section 4702, as amended; or

4 (2) six percent of the loan amount for any other
5 borrower.

6 SECTION 1.59. Subsections (b), (c), and (d), Section
7 481.410, Government Code, are amended to read as follows:

8 (b) The state is entitled to earn interest on the amount of
9 contributions made by the bank [~~department~~], borrower, and
10 institution to a reserve account under this subchapter. The bank
11 [~~department~~] shall withdraw monthly or quarterly from a reserve
12 account the amount of the interest earned by the state. The bank
13 [~~department~~] shall deposit the amount withdrawn under this
14 subsection into the fund.

15 (c) If the amount in a reserve account exceeds an amount
16 equal to 33 percent of the balance of the financial institution's
17 outstanding capital access loans, the bank [~~department~~] may
18 withdraw the excess amount and deposit the amount in the fund. A
19 withdrawal of money authorized under this subsection may not reduce
20 an active reserve account to an amount that is less than \$200,000.

21 (d) The bank [~~department~~] shall withdraw from the
22 institution's reserve account the total amount in the account and
23 any interest earned on the account and deposit the amount in the
24 fund when:

25 (1) a financial institution is no longer eligible to
26 participate in the program or a participation agreement entered
27 into under this subchapter expires without renewal by the bank

1 ~~[department]~~ or institution;

2 (2) the financial institution has no outstanding
3 capital access loans; ~~and]~~

4 (3) the financial institution has not made a capital
5 access loan within the preceding 24 months; or

6 (4) the financial institution fails to submit a report
7 or other document requested by the bank within the time or in the
8 manner prescribed.

9 SECTION 1.60. Section 481.411, Government Code, is amended
10 to read as follows:

11 Sec. 481.411. ANNUAL REPORT. A participating financial
12 institution shall submit an annual report to the bank ~~[department]~~.
13 The report must:

14 (1) provide information regarding outstanding capital
15 access loans, capital access loan losses, and any other information
16 on capital access loans the bank ~~[department]~~ considers
17 appropriate;

18 (2) state the total amount of loans for which the bank
19 ~~[department]~~ has made a contribution from the fund under this
20 subchapter;

21 (3) include a copy of the institution's most recent
22 financial statement; and

23 (4) include information regarding the type and size of
24 businesses and nonprofit organizations with capital access loans.

25 SECTION 1.61. Subsection (a), Section 481.412, Government
26 Code, is amended to read as follows:

27 (a) The office ~~[department]~~ shall submit to the legislature

1 an annual status report on the program's activities.

2 SECTION 1.62. Section 481.414, Government Code, is amended
3 to read as follows:

4 Sec. 481.414. GIFTS AND GRANTS. The bank [~~department~~] may
5 accept gifts, grants, and donations from any source for the
6 purposes of this subchapter.

7 SECTION 1.63. The heading to Section 502.271,
8 Transportation Code, is amended to read as follows:

9 Sec. 502.271. TEXAS AEROSPACE AND AVIATION [~~COMMISSION~~]
10 LICENSE PLATES.

11 SECTION 1.64. Subsections (a), (b), and (d), Section
12 502.271, Transportation Code, are amended to read as follows:

13 (a) The department shall issue specially designed Texas
14 Aerospace and Aviation [~~Commission~~] license plates for passenger
15 cars and light trucks.

16 (b) The license plates must include the name "Texas
17 Aerospace and Aviation [~~Commission~~]" and be of a color, quality,
18 and design approved by the Texas Economic Development and Tourism
19 Office [~~Aerospace Commission~~].

20 (d) Of each fee collected under this section, the department
21 shall deposit \$25 under this section in [~~to the credit of~~] the
22 general revenue fund to the credit of the Texas Economic
23 Development and Tourism Office account, which may be used only to
24 support the activities of the aerospace and aviation office
25 established by the Texas Economic Development and Tourism Office,
26 and \$5 to the credit of the state highway fund.

27 SECTION 1.65. (a) The Texas Department of Economic

1 Development is abolished and the offices of the members of the
2 governing board of the department serving on the effective date of
3 this Act are abolished.

4 (b) The validity of an action taken by the Texas Department
5 of Economic Development or its governing board before it is
6 abolished under Subsection (a) of this section is not affected by
7 the abolishment.

8 SECTION 1.66. On September 1, 2003:

9 (1) a rule, standard, or form adopted by the Texas
10 Department of Economic Development or the department's governing
11 board is a rule, standard, or form of the Texas Economic Development
12 and Tourism Office and remains in effect until changed by the
13 executive director of the office;

14 (2) a reference in law to the Texas Department of
15 Economic Development or its governing board means the Texas
16 Economic Development and Tourism Office;

17 (3) a proceeding involving the Texas Department of
18 Economic Development is transferred without change in status to the
19 Texas Economic Development and Tourism Office, and the Texas
20 Economic Development and Tourism Office assumes, without a change
21 in status, the position of the Texas Department of Economic
22 Development in a proceeding to which the Texas Department of
23 Economic Development is a party;

24 (4) all money, contracts, leases, rights, and
25 obligations of the Texas Department of Economic Development are
26 transferred to the Texas Economic Development and Tourism Office;

27 (5) all property, including records, in the custody of

1 the Texas Department of Economic Development becomes the property
2 of the Texas Economic Development and Tourism Office; and

3 (6) all funds appropriated by the legislature to the
4 Texas Department of Economic Development are transferred to the
5 Texas Economic Development and Tourism Office.

6 SECTION 1.67. (a) The executive director of the Texas
7 Department of Economic Development serving on the effective date of
8 this Act does not automatically become the executive director of
9 the Texas Economic Development and Tourism Office. To become the
10 executive director of the Texas Economic Development and Tourism
11 Office, a person must apply for the position and the person's
12 employment in that capacity must be approved by the governor.

13 (b) An employee of the Texas Department of Economic
14 Development employed on the effective date of this Act does not
15 automatically become an employee of the Texas Economic Development
16 and Tourism Office. To become an employee of the Texas Economic
17 Development and Tourism Office, a person must apply for a position
18 at the Texas Economic Development and Tourism Office and the
19 person's employment in that capacity must be approved by the
20 governor or the executive director of the office.

21 SECTION 1.68. A function or activity performed by the Texas
22 Department of Economic Development is transferred to the Texas
23 Economic Development and Tourism Office as provided by this Act.

24 SECTION 1.69. The Texas Department of Economic Development
25 or the Texas Economic Development and Tourism Office, as
26 applicable, shall establish a transition plan for the transfer
27 described in Section 1.66 of this Act. The plan must include a

1 reasonable timetable for the effective reconstruction of the
2 department's mission, strategies, performance measures, functions,
3 and staff as they relate to key economic clusters in this state.

4 SECTION 1.70. (a) On September 1, 2003:

5 (1) the functions performed by the Texas Aerospace
6 Commission are transferred to the aerospace and aviation office of
7 the Texas Economic Development and Tourism Office;

8 (2) the executive director of the Texas Aerospace
9 Commission becomes the director of the aerospace and aviation
10 office of the Texas Economic Development and Tourism Office; and

11 (3) all funds appropriated by the legislature to the
12 Texas Aerospace Commission, including any funds appropriated to the
13 Texas Aerospace Commission collected under Section 502.271,
14 Transportation Code, are transferred to the Texas Economic
15 Development and Tourism Office account.

16 (b) The governor shall determine the manner in which
17 employees of the Texas Aerospace Commission, if any, are
18 transferred to the aerospace and aviation office of the Texas
19 Economic Development and Tourism Office.

20 ARTICLE 2. CREATION OF TEXAS ECONOMIC DEVELOPMENT BANK

21 SECTION 2.01. Subtitle F, Title 4, Government Code, is
22 amended by adding Chapter 489 to read as follows:

23 CHAPTER 489. TEXAS ECONOMIC DEVELOPMENT BANK

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 489.001. DEFINITIONS. In this chapter:

26 (1) "Bank" means the Texas Economic Development Bank
27 established under Section 489.101.

1 (2) "Fund" means the Texas economic development bank
2 fund.

3 (3) "Office" means the Texas Economic Development and
4 Tourism Office.

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

7 [Sections 489.003-489.100 reserved for expansion]

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

10 Sec. 489.101. CREATION OF BANK. (a) The office shall
11 establish the Texas Economic Development Bank for the purpose of:

12 (1) providing globally competitive, cost-effective
13 state incentives to expanding businesses operating in this state
14 and businesses relocating to this state; and

15 (2) ensuring that communities and businesses in this
16 state have access to capital for economic development purposes.

17 (b) The bank's effectiveness shall be measured on the basis
18 of the number of jobs created and retained and the total amount of
19 nonstate funds leveraged as a result of the bank's efforts.

20 Sec. 489.102. POWERS AND DUTIES OF BANK. (a) The bank
21 shall offer a variety of financial incentives to help communities
22 and businesses in this state compete and succeed in the global
23 marketplace. The bank shall assist communities in accessing
24 financing with which to fund their economic development efforts.

25 (b) The bank may:

26 (1) provide, as provided under the programs the bank
27 administers under Section 489.108 or otherwise as provided by law:

1 (A) qualifying communities with tax incentives
2 for expanding businesses or businesses relocating to this state;

3 (B) incentives to lenders to:

4 (i) make loans to near-bankable businesses
5 in the lender's community; and

6 (ii) make low-interest loans to qualifying
7 businesses; and

8 (C) bond-based long-term debt financing for
9 capital investment in public entities, in large commercial and
10 industrial projects, and for other economic development purposes;

11 (2) act as a link between businesses searching for
12 investment capital and potential investors;

13 (3) inform institutional lenders of economic
14 development plans and strategies for each region of this state and
15 encourage institutional lenders to support those plans in their
16 marketing and investment strategies;

17 (4) offer communities a one-stop source of financing
18 for their economic development efforts;

19 (5) provide communities with technical assistance in
20 the development of their incentive programs to attract and retain
21 businesses and in the design of incentive packages for specific
22 proposals; and

23 (6) provide expanding businesses or businesses
24 relocating to this state with a single source of information
25 concerning financial incentives offered by this state to those
26 businesses.

27 Sec. 489.103. FEES. The bank shall charge fees to the

1 beneficiaries of its services as the bank determines necessary.
2 Amounts collected under this section may be used to support the
3 administration of the bank's programs and implementation of the
4 bank's strategies.

5 Sec. 489.104. ALLOCATION OF RESOURCES. The bank may
6 allocate its resources as necessary to efficiently meet the level
7 of demand experienced by each program or service described by
8 Section 489.108.

9 Sec. 489.105. TEXAS ECONOMIC DEVELOPMENT BANK FUND.

10 (a) The Texas economic development bank fund is a dedicated
11 account in the general revenue fund.

12 (b) The fund consists of:

13 (1) appropriations for the implementation and
14 administration of this chapter;

15 (2) investment earnings under the capital access fund
16 established under Section 481.402;

17 (3) fees charged under Subchapter BB, Chapter 481;

18 (4) interest earned on the investment of money in the
19 fund;

20 (5) fees charged under this chapter;

21 (6) investment earnings from the programs
22 administered by the bank;

23 (7) amounts transferred under Section 2303.504(b), as
24 amended by Article 2, Chapter 1134, Acts of the 77th Legislature,
25 Regular Session, 2001;

26 (8) investment earnings under the Texas product
27 development fund under Section 489.211;

1 (9) investment earnings under the Texas small business
2 incubator fund under Section 489.212; and

3 (10) any other amounts received by the state under
4 this chapter.

5 (c) Money in the fund may be used only to carry out the
6 purposes of this chapter.

7 (d) The financial transactions of the fund are subject to
8 audit by the state auditor as provided by Chapter 321.

9 Sec. 489.106. ADMINISTRATION OF FUND AND CHAPTER. The
10 office shall administer the fund. In administering the fund and
11 this chapter, the office has the powers necessary to carry out the
12 purposes of this chapter, including the power to:

13 (1) make, execute, and deliver contracts,
14 conveyances, and other instruments;

15 (2) impose and collect fees and charges in connection
16 with any transaction and provide for reasonable penalties for
17 delinquent payments or performance; and

18 (3) issue bonds for economic development projects as
19 that term is defined by Section 2(11)(A) or 4B(a)(2), Development
20 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil
21 Statutes).

22 Sec. 489.107. ANNUAL REPORT. On or before January 1 of each
23 year, the office shall submit to the legislature an annual status
24 report on the activities of the bank.

25 Sec. 489.108. PROGRAMS, SERVICES, AND FUNDS UNDER BANK'S
26 DIRECTION. Notwithstanding any other law, the bank shall perform
27 the duties and functions of the office with respect to the following

1 programs, services, and funds:

2 (1) the Texas Small Business Industrial Development
3 Corporation established under Section 4, Development Corporation
4 Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes);

5 (2) the capital access program established under
6 Section 481.405;

7 (3) the Texas leverage fund;

8 (4) the linked deposit program established under
9 Section 481.193;

10 (5) the enterprise zone program established under
11 Chapter 2303;

12 (6) the industrial revenue bond program;

13 (7) the defense economic readjustment zone program
14 established under Chapter 2310;

15 (8) the Empowerment Zone and Enterprise Community
16 grant program established under Section 481.025; and

17 (9) the renewal community program.

18 [Sections 489.109-489.150 reserved for expansion]

19 SUBCHAPTER C. MISCELLANEOUS PROVISIONS

20 Sec. 489.151. STATE LIABILITY PROHIBITED. The state and
21 state officers or employees are not liable to participants for
22 grants, loans, or other transactions under this chapter except as
23 specifically provided by law.

24 Sec. 489.152. GIFTS, GRANTS, AND DONATIONS. The office may
25 accept gifts, grants, and donations from any source for the
26 purposes of this chapter.

27 [Sections 489.153-489.200 reserved for expansion]

1 SUBCHAPTER D. PRODUCT DEVELOPMENT AND SMALL

2 BUSINESS INCUBATORS

3 Sec. 489.201. DEFINITIONS. In this subchapter:

4 (1) "Board" means the Product Development and Small
5 Business Incubator Board.

6 (2) "Financing" means a loan, loan guarantee, or
7 equity investment from the product fund to a person for use in the
8 development and production of a product in this state, or a grant,
9 loan, or loan guarantee from the small business fund to a person for
10 use in the development of a small business in this state.

11 (3) "Office" includes the designee of the office.

12 (4) "Product" includes an invention, device,
13 technique, or process, without regard to whether a patent has been
14 or could be granted, that has advanced beyond the theoretical stage
15 and has or is readily capable of having a commercial application.
16 The term does not include pure research.

17 (5) "Product fund" means the Texas product development
18 fund.

19 (6) "Program" means the product development program or
20 the small business incubator program.

21 (7) "Small business fund" means the Texas small
22 business incubator fund.

23 Sec. 489.202. PRODUCT DEVELOPMENT AND SMALL BUSINESS
24 INCUBATOR BOARD. (a) The Product Development and Small Business
25 Incubator Board is created in the office.

26 (b) The bank administers the programs, the product fund, and
27 the small business fund.

1 Sec. 489.203. BOARD MEMBERS; APPOINTMENT; TERMS OF OFFICE.

2 (a) The board consists of nine persons appointed by the governor.

3 (b) In appointing members of the board, the governor shall
4 appoint:

5 (1) three persons having significant business
6 leadership experience in technology, particularly experience with
7 the transfer of research results into commercial applications;

8 (2) two persons employed by institutions of higher
9 education of this state who have experience in technological
10 research and its commercial applications;

11 (3) two persons experienced and knowledgeable in
12 structuring and providing financing for technological products or
13 businesses; and

14 (4) two persons who reside in a county of this state
15 with above state average unemployment and below state average per
16 capita income and who have experience and knowledge in
17 technology-related business growth.

18 (c) Appointed members of the board serve two-year staggered
19 terms, with the terms of three members expiring February 1 of each
20 odd-numbered year.

21 (d) The governor shall appoint the presiding officer of the
22 board.

23 (e) The board shall appoint a secretary of the board whose
24 duties may be prescribed by law and by the board.

25 (f) Appointed members of the board serve without pay but are
26 entitled to reimbursement for their actual expenses incurred in
27 attending meetings of the board or in performing other work of the

1 board if that work is approved by the governor or the governor's
2 designee.

3 Sec. 489.204. REMOVAL OF BOARD MEMBER. (a) It is a ground
4 for removal from the board if an appointed member:

5 (1) cannot because of illness or disability discharge
6 the member's duties for a substantial part of the term for which the
7 member is appointed; or

8 (2) is absent from more than half of the regularly
9 scheduled board meetings that the member is eligible to attend
10 during a calendar year unless the absence is excused by majority
11 vote of the board.

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

15 Sec. 489.205. TRAINING OF BOARD MEMBERS. (a) Before an
16 appointed member of the board may assume the member's duties, the
17 member must complete at least one course of the training program
18 established under this section.

19 (b) A training program established under this section shall
20 provide information to the member regarding:

21 (1) the enabling legislation that created the board;

22 (2) the programs operated by the board;

23 (3) the role and functions of the board;

24 (4) the rules of the board, with an emphasis on the
25 rules that relate to disciplinary and investigatory authority;

26 (5) the current budget for the board;

27 (6) the results of the most recent formal audit of the

1 board;

2 (7) the requirements of the:

3 (A) open meetings law, Chapter 551;

4 (B) open records law, Chapter 552; and

5 (C) administrative procedure law, Chapter 2001;

6 (8) the requirements of the conflict of interest laws
7 and other laws relating to public officials; and

8 (9) any applicable ethics policies adopted by the
9 board or the Texas Ethics Commission.

10 Sec. 489.206. MEETINGS. (a) The board shall hold regular
11 meetings in Austin and other meetings at places and times scheduled
12 by the board in formal sessions and called by the bank.

13 (b) The board shall develop and implement policies that
14 provide the public with a reasonable opportunity to appear before
15 the board and to speak on any issue under the jurisdiction of the
16 board.

17 (c) The board shall make minutes of all meetings available
18 in the board's office for public inspection.

19 Sec. 489.207. APPLICABILITY OF OPEN MEETINGS LAW AND
20 ADMINISTRATIVE PROCEDURE LAW. The board is subject to the open
21 meetings law, Chapter 551, and the administrative procedure law,
22 Chapter 2001.

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

26 (b) The executive director of the office shall select and
27 supervise the staff of the board and perform other duties delegated

1 to the office by the board.

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

8 (d) The board shall develop and implement policies that
9 clearly separate the policy-making responsibilities of the board
10 and the management responsibilities of the office, the bank, and
11 the executive director of the office.

12 Sec. 489.209. PROGRAM AND FACILITY ACCESSIBILITY. (a) The
13 board shall comply with federal and state laws related to program
14 and facility accessibility.

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

18 Sec. 489.210. POWERS OF BOARD AND BANK; BONDS. (a) The
19 board and bank have the powers necessary and reasonable to carry out
20 this subchapter and the board may adopt rules, policies, and
21 procedures necessary or reasonable to implement this subchapter.

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

25 (c) Not more than an amount equal to five percent of the
26 total amount of bonds issued may be used to pay administrative fees
27 involved in selling the bonds.

1 Sec. 489.211. TEXAS PRODUCT DEVELOPMENT FUND. (a) The
2 Texas product development fund is a revolving fund in the state
3 treasury.

4 (b) The product fund is composed of proceeds of bonds issued
5 under this subchapter, financing application fees, loan
6 repayments, guarantee fees, royalty receipts, dividend income,
7 money appropriated by the legislature for authorized purposes of
8 the product fund, amounts received by the state from loans, loan
9 guarantees, and equity investments made under this subchapter,
10 amounts received by the state from federal grants or other sources,
11 and any other amounts received under this subchapter and required
12 by the bank to be deposited in the product fund. The product fund
13 contains a program account, an interest and sinking account, and
14 other accounts that the bank authorizes to be created and
15 maintained. Money in the product fund is available for use by the
16 board under this subchapter. Investment earnings under the product
17 fund must be transferred to the fund created under Section 489.105.
18 Notwithstanding any other provision of this subchapter, any money
19 in the product fund may be used for debt service.

20 (c) Money in the program account of the product fund, minus
21 the costs of issuance of bonds under this subchapter and necessary
22 costs of administering the product fund, may be used only to provide
23 financing to aid in the development and production, including the
24 commercialization, of new or improved products in this state. The
25 bank shall provide financing from the product fund on the terms and
26 conditions that the bank determines to be reasonable, appropriate,
27 and consistent with the purposes and objectives of the product fund

1 and this subchapter, for the purpose of aiding in the development
2 and production of new or improved products in this state.

3 Sec. 489.212. SMALL BUSINESS INCUBATOR FUND. (a) The
4 Texas small business incubator fund is a revolving fund in the state
5 treasury.

6 (b) The small business fund is composed of proceeds of bonds
7 issued under this subchapter, financing application fees, loan
8 repayments, guarantee fees, royalty receipts, dividend income,
9 money appropriated by the legislature for authorized purposes of
10 the small business fund, amounts received by the state from loans,
11 loan guarantees, and equity investments made under this subchapter,
12 amounts received by the state from federal grants or other sources,
13 and any other amounts received under this subchapter and required
14 by the bank to be deposited in the small business fund. The small
15 business fund contains a project account, an interest and sinking
16 account, and other accounts that the bank authorizes to be created
17 and maintained. Money in the small business fund is available for
18 use by the board under this subchapter. Investment earnings under
19 the small business fund must be transferred to the fund created
20 under Section 489.105. Notwithstanding any other provision of this
21 subchapter, any money in the small business fund may be used for
22 debt service.

23 (c) Money in the project account of the small business fund,
24 minus the costs of issuance of bonds under this subchapter and
25 necessary costs of administering the small business fund, may be
26 used only to provide financing to foster and stimulate the
27 development of small businesses in this state. The bank shall

1 provide financing from the small business fund on the terms and
2 conditions that the bank determines to be reasonable, appropriate,
3 and consistent with the purposes and objectives of the small
4 business fund and this subchapter, for the purpose of fostering and
5 stimulating the development of new or existing small businesses in
6 this state.

7 Sec. 489.213. ELIGIBLE PRODUCTS AND BUSINESSES; FINANCING.

8 (a) Financing may be made under this subchapter only for a product
9 or small business approved by the bank.

10 (b) In determining eligible products and small businesses,
11 the bank shall give special preference to products or businesses in
12 the areas of biotechnology and biomedicine that have the greatest
13 likelihood of commercial success, job creation, and job retention
14 in this state. The bank shall give further preference to providing
15 financing to projects or businesses that are:

16 (1) grantees under the small business innovation
17 research program established under 15 U.S.C. Section 638, as
18 amended;

19 (2) companies formed in this state to commercialize
20 research funded at least in part with state funds;

21 (3) applicants that have acquired other sources of
22 financing;

23 (4) companies formed in this state and receiving
24 assistance from designated state small business development
25 centers; or

26 (5) applicants who are residents of this state doing
27 business in this state and performing financed activities

1 predominantly in this state.

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

9 (d) Before approving the provision of financing to a person,
10 the bank shall enter into an agreement with the person under which
11 the bank will obtain an appropriate portion of royalties, patent
12 rights, equitable interests, or a combination of those royalties,
13 rights, and interests from or in the product or the proceeds of the
14 product for which financing is requested. Contracts executed under
15 this subchapter must include agreements to ensure proper use of
16 funds and the receipt of royalties, patent rights, or equity
17 interest, as appropriate.

18 (e) The board may appoint an advisory committee of experts
19 in the areas of biotechnology and biomedicine to review projects
20 and businesses seeking financing from the bank.

21 (f) The amount of financing provided to a single recipient
22 may not exceed 10 percent of the total amount of bonds issued.

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

26 Sec. 489.214. APPLICATION PROCESS. (a) To apply for
27 financing from the bank, an applicant shall submit to the bank:

1 (1) an application for financing on a form prescribed
2 by the bank; and

3 (2) a reasonable application fee set by the bank.

4 (b) The application must include a business plan containing
5 the information required by the bank, including at a minimum:

6 (1) information regarding:

7 (A) the history and financial condition of the
8 applicant, including the applicant's income statement;

9 (B) the applicant's present markets and market
10 prospects; and

11 (C) the integrity of the applicant's management;

12 (2) a statement of the feasibility of the product for
13 which financing is requested, including the state of development of
14 any product to be developed and the proposed schedule of its
15 commercialization; and

16 (3) if applicable, documentation of attempts to obtain
17 private financing.

18 (c) The bank shall determine, with respect to each
19 application for financing, whether:

20 (1) the product or business for which financing is
21 requested is economically sound;

22 (2) there is a reasonable expectation that the product
23 or business will be successful;

24 (3) the product or business will create or preserve
25 jobs and otherwise benefit the economy of the state;

26 (4) the applicant has the management resources and
27 other funding to complete the project;

1 (5) financing is necessary because full financing is
2 unavailable in traditional capital markets or credit has been
3 offered on terms that would preclude the success of the project; and

4 (6) there is reasonable assurance that the potential
5 revenues to be derived from the sale of the product will be
6 sufficient to repay any financing approved by the bank.

7 (d) After considering the application and all other
8 information it considers relevant, the bank shall approve or deny
9 the application and promptly notify the applicant of its decision.

10 Sec. 489.215. INFORMATION CONFIDENTIAL. (a) Information
11 described by Subsection (b) collected, assembled, or maintained by
12 or for the bank is confidential and may not be disclosed by the
13 bank, the board, the office, or the executive director of the
14 office.

15 (b) This section applies to information in any form provided
16 by or on behalf of an applicant for financing or a recipient of
17 financing under this subchapter, including information contained
18 in, accompanying, or derived from any application or report, that
19 relates to a product, to the development, application, manufacture,
20 or use of a product, or to the markets, market prospects, or
21 marketing of a product and that is proprietary information of
22 actual or potential commercial value to the applicant or recipient
23 that has not been disclosed to the public. Confidential
24 information includes scientific and technological information,
25 including computer programs and software, and marketing and
26 business operation information, regardless of whether the product
27 to which the information relates is patentable or capable of being

1 registered under copyright or trademark laws or has a potential for
2 being sold, traded, or licensed for a fee. This section does not
3 make confidential information in an account, voucher, or contract
4 relating to the receipt or expenditure of public funds by the bank,
5 board, or the department or its successor under this subchapter.

6 (c) Any application for financing that is withdrawn by the
7 applicant before approval or funding or that is denied by the bank
8 shall be returned to the applicant promptly on request, together
9 with all materials submitted by or on behalf of the applicant that
10 relate to the application, except that the bank may retain a record
11 of the submission and disposition of the application that does not
12 include any information described by Subsection (b).

13 Sec. 489.216. PROGRAM COORDINATION. The bank and the
14 office shall coordinate the administration and funding of the
15 programs.

16 Sec. 489.217. EXPENDITURES. All expenditures of the
17 program must be approved on behalf of the state by the bank.
18 Expenses incurred by the program in the operation and
19 administration of its programs and affairs, including expenditures
20 for employees and program assistance or development, shall be paid
21 out of fees collected or revenues generated under this subchapter.

22 SECTION 2.02. On September 1, 2003:

23 (1) all functions and activities performed by the
24 comptroller of public accounts relating to the small business
25 incubator program, the Texas small business incubator fund, and the
26 Texas product development fund immediately before that date are
27 transferred to the Texas Economic Development and Tourism Office or

1 the Texas Economic Development Bank, as provided by this Act;

2 (2) a rule adopted by the Product Development and
3 Small Business Incubator Board under Subchapter P, Chapter 403,
4 Government Code, as that law existed immediately before the
5 effective date of this Act, with respect to the small business
6 incubator program, the Texas small business incubator fund, and the
7 Texas product development fund remains in effect until rules are
8 adopted by the Product Development and Small Business Incubator
9 Board established under Subchapter D, Chapter 489, Government Code,
10 as added by this Act;

11 (3) all money, contracts, leases, rights, and
12 obligations of the comptroller of public accounts related to
13 functions and activities performed by the comptroller relating to
14 the small business incubator program, the Texas small business
15 incubator fund, and the Texas product development fund are
16 transferred to the Texas Economic Development and Tourism Office or
17 the Texas Economic Development Bank, as provided by this Act;

18 (4) all funds appropriated by the legislature to the
19 comptroller of public accounts for purposes related to the small
20 business incubator program, the Texas small business incubator
21 fund, and the Texas product development fund are transferred to the
22 Texas Economic Development and Tourism Office or the Texas Economic
23 Development Bank, as provided by this Act; and

24 (5) all property, including records, in the custody of
25 the comptroller of public accounts related to functions and
26 activities performed by the comptroller relating to the small
27 business incubator program, the Texas small business incubator

1 fund, and the Texas product development fund becomes property of
2 the Texas Economic Development and Tourism Office or the Texas
3 Economic Development Bank, as provided by this Act.

4 SECTION 2.03. (a) As soon as possible on or after the
5 effective date of this Act, the governor shall appoint nine new
6 members to the Product Development and Small Business Incubator
7 Board in accordance with Subchapter D, Chapter 489, Government
8 Code, as added by this Act. In making the appointments, the
9 governor shall designate three members for terms expiring February
10 1, 2005, three members for terms expiring February 1, 2007, and
11 three members for terms expiring February 1, 2009. The members
12 appointed under this subsection may not perform the functions of
13 the board until the day after the date a majority of the new members
14 take office.

15 (b) Until the date the new members of the Product
16 Development and Small Business Incubator Board may begin performing
17 the functions of the board under Subsection (a) of this section, the
18 members serving on the board immediately before the effective date
19 of this Act shall continue to carry out the functions of the board.
20 On the date the new members may begin performing the functions of
21 the board, the offices of the members serving immediately before
22 the effective date of this Act are abolished.

23 (c) The changes in law made by this Act in the
24 qualifications of, and the prohibitions applying to, members of the
25 Product Development and Small Business Incubator Board do not
26 affect the entitlement of a member serving on the board immediately
27 before the effective date of this Act to continue to carry out the

1 functions of the board for the period prescribed by Subsection (b)
2 of this section. The changes in law apply only to a member
3 appointed on or after the effective date of this Act. This Act does
4 not prohibit a person who is a member of the board on the effective
5 date of this Act from being reappointed to the board if the person
6 has the qualifications required for a member under Subchapter D,
7 Chapter 489, Government Code, as added by this Act.

8 SECTION 2.04. On the effective date of this Act,
9 unobligated and unexpended money in the capital access fund created
10 under Section 481.402, Government Code, as amended by this Act, and
11 in the Texas leverage fund shall be transferred to the Texas
12 economic development bank fund created under Section 489.105,
13 Government Code, as added by this Act.

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

17 SECTION 3.01. Section 2303.003, Government Code, is amended
18 by amending Subdivisions (1) and (5) and adding Subdivisions (1-a),
19 (1-b), (3-a), (5-a), and (6-a) to read as follows:

20 (1) "Bank" means the Texas Economic Development Bank
21 established under Chapter 489.

22 (1-a) "Block group" has the meaning assigned by the
23 Bureau of the Census of the United States Department of Commerce.

24 (1-b) "Day" means the period between 8 a.m. and 5 p.m.
25 of a day other than a Saturday, Sunday, or state or federal holiday.

26 (3-a) "Governing body of an enterprise zone" means the
27 governing body of a municipality or county in which an enterprise

1 zone is located.

2 (5) "Nominating body" means the governing body of a
3 municipality or county~~[, or a combination of the governing bodies~~
4 ~~of municipalities or counties,]~~ that nominates a project or
5 activity of a qualified business ~~[and applies]~~ for designation ~~[of~~
6 ~~an area]~~ as an enterprise project ~~[zone]~~.

7 (5-a) "Office" means the Texas Economic Development
8 and Tourism Office.

9 (6-a) "Qualified business site" means the specific
10 business site of an enterprise project.

11 SECTION 3.02. Sections 2303.051, 2303.052, 2303.053, and
12 2303.054, Government Code, are amended to read as follows:

13 Sec. 2303.051. GENERAL POWERS AND DUTIES. (a) The bank
14 ~~[department]~~ shall administer and monitor the implementation of
15 this chapter.

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

24 (b) The bank ~~[department]~~ shall establish criteria and
25 procedures for designating a project or activity of a qualified
26 business ~~[area]~~ as an ~~[enterprise zone and for designating an]~~
27 enterprise project.

1 (c) The office [~~department~~] shall adopt rules necessary to
2 carry out the purposes of this chapter.

3 Sec. 2303.052. EVALUATION; REPORT. (a) The bank
4 [~~department~~] shall conduct a continuing evaluation of the [~~programs~~
5 ~~of~~] enterprise zone program [~~zones~~].

6 (b) The bank [~~department~~] shall develop data from available
7 information demonstrating the relationship between the incentives
8 provided under this chapter and the economy.

9 (c) The bank [~~department~~] biennially shall review local
10 incentives.

11 (d) On or before January 1 [~~December 15~~] of each year the
12 bank [~~department~~] shall submit to the governor, the legislature,
13 and the Legislative Budget Board a report that:

14 (1) evaluates the effectiveness of the enterprise zone
15 program;

16 (2) describes the use of state and local incentives
17 under this chapter and their effect on revenue; and

18 (3) suggests legislation.

19 Sec. 2303.053. ASSISTANCE. (a) The bank [~~department~~]
20 shall assist:

21 (1) a qualified business in obtaining the benefits of
22 any incentive or inducement program provided by law;

23 (2) a unit of local government in obtaining status as a
24 federal [~~enterprise~~] zone designation that furthers the purpose of
25 this chapter;

26 (3) a nominating [~~the governing~~] body [~~of an~~
27 ~~enterprise zone~~] in obtaining assistance from another state agency,

1 including training and technical assistance to qualified
2 businesses in an enterprise [~~a~~] zone; and

3 (4) a nominating [~~the governing~~] body [~~of an~~
4 ~~enterprise zone~~] in developing small business incubators.

5 (b) The bank [~~department~~] shall provide to persons desiring
6 to locate and engage in business in an enterprise zone information
7 and appropriate assistance relating to the required legal
8 authorization, including a state license, permit, certificate,
9 approval, registration, or charter, to engage in business in this
10 state.

11 (c) The bank [~~department~~] shall publicize existing tax
12 incentives and economic development programs in enterprise zones.

13 (d) On request the bank [~~department~~] shall offer to a unit
14 of local government having an enterprise zone within its
15 jurisdiction technical assistance relating to tax abatement and the
16 development of alternative revenue sources.

17 Sec. 2303.054. COORDINATION WITH OTHER GOVERNMENTAL
18 ENTITIES. (a) In cooperation with the appropriate units of local
19 government and other state agencies, the bank [~~department~~] shall
20 coordinate and streamline state business assistance programs and
21 permit or license application procedures for businesses in
22 enterprise zones.

23 (b) The bank [~~department~~] shall:

24 (1) work with the responsible state and federal
25 agencies to coordinate enterprise zone programs with other programs
26 carried out in an enterprise zone, including housing, community and
27 economic development, small business, banking, financial

1 assistance, transportation, and employment training programs;

2 (2) work to expedite, to the greatest extent possible,
3 the consideration of applications for those programs by
4 consolidating forms or by other means; and

5 (3) work, when possible, for the consolidation of
6 periodic reports required under those programs into one summary
7 report.

8 (c) The bank [~~department~~] shall encourage other state
9 agencies in awarding grants, loans, or services to give priority to
10 businesses in enterprise zones.

11 SECTION 3.03. Section 2303.101, Government Code, is amended
12 to read as follows:

13 Sec. 2303.101. QUALIFICATION [~~CRITERIA~~] FOR ENTERPRISE
14 ZONE DESIGNATION. An area automatically qualifies for designation
15 [~~(a) To be designated~~] as an enterprise zone if the [~~an~~] area is
16 [~~must~~]:

17 (1) a block group, as defined by the most recent
18 federal decennial census available at the time of designation, in
19 which at least 20 percent of the residents of the block group have
20 an income at or below 100 percent of the federal poverty level [~~have~~
21 ~~a continuous boundary~~]; or

22 (2) an area designated by the federal government as a
23 renewal community, a federal empowerment zone, or a federal
24 enterprise community, including any developable area approved by
25 the federal agency responsible for making that designation [~~be at~~
26 ~~least one square mile but not larger than the greater of:~~

27 [~~(A) 10 square miles, excluding lakes,~~

1 ~~waterways, and transportation arteries, or~~

2 ~~[(B) an area, not to exceed 20 square miles, that~~
3 ~~is equal to five percent of the area, excluding lakes, waterways,~~
4 ~~and transportation arteries, of the municipality, county, or~~
5 ~~combination of municipalities or counties nominating the area as an~~
6 ~~enterprise zone,~~

7 ~~[(3) be an area of pervasive poverty, unemployment,~~
8 ~~and economic distress; and~~

9 ~~[(4) be nominated as an enterprise zone by an~~
10 ~~ordinance or order adopted by the nominating body].~~

11 ~~[(b) The department may not designate an area as an~~
12 ~~enterprise zone if three enterprise zones are located in the~~
13 ~~jurisdiction of and were nominated as enterprise zones by the~~
14 ~~governing body of the municipality or county nominating the area as~~
15 ~~an enterprise zone.]~~

16 SECTION 3.04. Section 2303.109, Government Code, is amended
17 to read as follows:

18 Sec. 2303.109. PERIOD OF DESIGNATION. (a) ~~[An area may be~~
19 ~~designated as an enterprise zone for a maximum of seven years.]~~ An
20 enterprise zone [A] designation remains in effect indefinitely so
21 long as the area continues to qualify for designation as an
22 enterprise zone under this chapter. If an area no longer qualifies
23 for enterprise zone designation following the release of a
24 subsequent federal decennial census, the area's designation
25 remains in effect until the date on which the bank makes the updated
26 information for that subsequent census available to the public as
27 required by Section 2303.051 ~~[until September 1 of the final year of~~

1 ~~the designation~~].

2 (b) Notwithstanding Subsection (a), an area designated by
3 the federal government as a renewal community, a [~~federal~~
4 ~~enterprise zone~~,] federal empowerment zone, or a federal enterprise
5 community may be designated as an enterprise zone without further
6 qualification for [~~longer than seven years but~~] not longer than the
7 period permitted for the respective designation by federal law.

8 SECTION 3.05. The heading to Subchapter D, Chapter 2303,
9 Government Code, is amended to read as follows:

10 SUBCHAPTER D. ADMINISTRATION [~~OF ENTERPRISE ZONE~~]

11 SECTION 3.06. Section 2303.201, Government Code, is amended
12 to read as follows:

13 Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. The
14 governing body of an enterprise zone is the governing body of the
15 municipality or county with jurisdiction over[~~, or the governing~~
16 ~~bodies of the combination of municipalities or counties, that~~
17 ~~applied to have~~] the area designated as an enterprise zone.

18 SECTION 3.07. Section 2303.204, Government Code, is amended
19 to read as follows:

20 Sec. 2303.204. LIAISON. A nominating [~~The governing~~] body
21 [~~of an enterprise zone~~] shall designate a liaison to oversee
22 enterprise projects it has nominated under this chapter and to
23 communicate and negotiate with:

- 24 (1) the bank or the office [~~department~~];
25 (2) [~~the administrative authority, if one exists,~~
26 [~~3~~] an enterprise project; and
27 (3) [~~4~~] other entities in an enterprise zone or

1 affected by an ~~[the]~~ enterprise project, including a qualified
2 business, within the jurisdiction of the nominating governmental
3 entity ~~[zone]~~.

4 SECTION 3.08. Subsections (a) and (c), Section 2303.205,
5 Government Code, are amended to read as follows:

6 (a) Not later than October 1 of each year, the nominating
7 ~~[the governing]~~ body of a project or activity designated as an
8 enterprise project ~~[zone]~~ shall submit to the bank ~~[department]~~ a
9 report in the form required by the bank ~~[department]~~.

10 (c) The report must include for the year preceding the date
11 of the report:

12 (1) a list of local incentives for community
13 development available in the jurisdiction of the governmental
14 entity nominating the enterprise project ~~[zone]~~;

15 (2) the use of local incentives described by ~~[for~~
16 ~~which]~~ the nominating ~~[governing]~~ body ~~[provided]~~ in the ordinance
17 or order nominating the enterprise project ~~[zone]~~ and the effect of
18 those incentives on revenue;

19 (3) the number of businesses assisted, located, and
20 retained in the jurisdiction of the governmental entity nominating
21 the enterprise project ~~[zone since its designation]~~ due to the
22 existence of the enterprise zone program; and

23 (4) a summary of all industrial revenue bonds issued
24 to finance enterprise projects located in the jurisdiction of the
25 governmental entity nominating the enterprise project ~~[zone, and~~

26 ~~[(5) a description of all efforts made to attain~~
27 ~~revitalization goals for the zone]~~.

1 SECTION 3.09. Section 2303.401, Government Code, is amended
2 to read as follows:

3 Sec. 2303.401. DEFINITIONS [~~DEFINITION~~]. In this
4 subchapter:

5 (1) "New permanent job" means a new employment
6 position created by a qualified business as described by Section
7 2303.402 that:

8 (A) has provided at least 1,820 hours of
9 employment a year to a qualified employee; and

10 (B) is intended to exist at [~~during the period~~
11 ~~that~~] the qualified business site for at least three years after the
12 date on which a state benefit is received as authorized by this
13 chapter [~~is designated as an enterprise project under Section~~
14 ~~2303.406~~].

15 (2) "Retained job" means a job that existed with a
16 qualified business before designation of the business's project or
17 activity as an enterprise project that:

18 (A) has provided employment to a qualified
19 employee of at least 1,820 hours annually; and

20 (B) is intended to be an employment position for
21 at least three years after the date on which a state benefit is
22 received as authorized by this chapter [~~during the period the~~
23 ~~business is designated as an enterprise project in accordance with~~
24 ~~Chapter 151, Tax Code~~].

25 SECTION 3.10. Subsection (a), Section 2303.402, Government
26 Code, is amended to read as follows:

27 (a) A person is a qualified business if the bank

1 ~~[department]~~, for the purpose of state benefits under this chapter,
2 or the nominating ~~[governing]~~ body of a project or activity of the
3 person under this chapter ~~[an enterprise zone]~~, for the purpose of
4 local incentives ~~[benefits]~~, certifies that:

5 (1) the person is engaged in or has provided
6 substantial commitment to initiate the active conduct of a trade or
7 business in an ~~[the]~~ enterprise zone, [+] and ~~[(2)]~~ at least 25
8 percent of the person's new employees in the enterprise zone are:

9 (A) residents of any enterprise zone in this
10 state ~~[the jurisdiction of the governing body of the enterprise~~
11 ~~zone]~~; or

12 (B) economically disadvantaged individuals; or

13 (2) the person is engaged in or has provided
14 substantial commitment to initiate the active conduct of a trade or
15 business in an area of this state that does not qualify as an
16 enterprise zone, and at least 35 percent of the person's new
17 employees at the qualified business site are:

18 (A) residents of any enterprise zone in this
19 state; or

20 (B) individuals who are economically
21 disadvantaged.

22 SECTION 3.11. Sections 2303.403 and 2303.404, Government
23 Code, are amended to read as follows:

24 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS
25 CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. If the
26 bank ~~[department]~~ determines that the governing body eligible to
27 nominate ~~[of]~~ an enterprise project ~~[zone]~~ is not complying with

1 this chapter, the bank [~~department~~] shall prohibit the
2 certification of a qualified business [~~in the zone~~] until the bank
3 [~~department~~] determines that the governing body is complying with
4 this chapter. The bank [~~department~~] may not designate more than 85
5 [~~businesses as~~] enterprise projects during any biennium.

6 Sec. 2303.404. REQUEST FOR APPLICATION FOR ENTERPRISE
7 PROJECT DESIGNATION. (a) A qualified business [~~in an enterprise~~
8 ~~zone described by Subsection (b)~~] may request that the governing
9 body of a municipality or county in which the qualified business is
10 located [~~of the enterprise zone~~] apply to the bank [~~department~~] for
11 designation of a project or activity of the business as an
12 enterprise project. [~~The request must also be made to the~~
13 ~~enterprise zone's administrative authority, if one exists.~~]

14 (b) The enterprise project designation must be for:

15 (1) an expansion or relocation from out-of-state, an
16 expansion, renovation, or new construction, or other property to be
17 undertaken by a qualified business; and

18 (2) a predetermined designation period approved by the
19 bank, with beginning and ending dates for each proposed project or
20 activity [~~A request may be made under this section only to the~~
21 ~~governing body of an enterprise zone that has:~~]

22 [~~(1) an unemployment rate that is at least one and~~
23 ~~one-half times the state average, or~~]

24 [~~(2) a population loss of at least:~~]

25 [~~(A) 12 percent during the most recent six-year~~
26 ~~period, or~~]

27 [~~(B) four percent during the most recent~~]

1 ~~three-year period~~].

2 (c) The designation period for an enterprise project may not
3 exceed five years from the date on which the designation is made.

4 (d) If an enterprise project designation is for a franchise
5 or subsidiary, separate books and records must be maintained for
6 the business activity conducted at the qualified business site.

7 SECTION 3.12. Section 2303.405, Government Code, is amended
8 by amending Subsections (a), (b), and (c) and adding Subsection (f)
9 to read as follows:

10 (a) If the governing body approves [~~of an enterprise zone or~~
11 ~~the governing body and administrative authority of an enterprise~~
12 ~~zone, as appropriate, approve]~~ a request made under Section
13 2303.404, the governing body may apply to the bank [~~department~~]
14 the designation of the qualified business as an enterprise project
15 only after it submits to the bank the order or ordinance and other
16 information that complies with the requirements of Sections
17 2303.4051 and 2303.4052.

18 (b) An application must [+

19 [~~(1) describe completely the conditions in the~~
20 ~~enterprise zone that constitute pervasive poverty, unemployment,~~
21 ~~and economic distress for purposes of Section 2303.101,~~

22 [~~(2) describe the procedures and efforts of the~~
23 ~~governmental entity or entities that applied to have the area~~
24 ~~designated as an enterprise zone to facilitate and encourage~~
25 ~~participation by and negotiation among all affected entities in the~~
26 ~~zone in which the qualified business is located,~~

27 [~~(3)] contain an economic analysis of the plans of the~~

1 qualified business for expansion, revitalization, or other
2 activity with regard to the enterprise project [~~in the enterprise~~
3 ~~zone~~], including:

4 (1) [~~(A)~~] the number of anticipated new permanent jobs
5 the enterprise project [~~business~~] will create during the
6 designation period;

7 (2) [~~(B)~~] the anticipated number of permanent jobs the
8 enterprise project [~~business~~] will retain during the designation
9 period;

10 (3) [~~(C)~~] the amount of investment to be made by the
11 enterprise project [~~in the zone~~]; [~~and~~]

12 (4) a complete description of the projected schedule
13 for completion of the specific activity described by Section
14 2303.404(b) to be undertaken by the enterprise project;

15 (5) [~~(D)~~] other information the bank [~~department~~]
16 requires; [~~and~~]

17 (6) a description of [~~(4) describe~~] the local effort
18 made by the nominating body [~~governmental entity or entities that~~
19 ~~applied to have the area designated as an enterprise zone, the~~
20 ~~administrative authority, if one exists~~], the qualified business,
21 and other affected entities to develop and revitalize the
22 jurisdiction of the governmental entity nominating the project or
23 activity; and

24 (7) if the nominating body is applying for a double or
25 triple jumbo enterprise project, as defined by Section 2303.407, an
26 indication of which of those types of designations is being sought
27 [~~zone~~].

1 (c) For the purposes of this section, local effort to
2 develop and revitalize a municipality or county [~~an enterprise~~
3 ~~zone~~] is:

4 (1) the willingness of public entities in the
5 municipality or county [~~zone~~] to provide services, incentives, and
6 regulatory relief authorized by this chapter and to negotiate with
7 the qualified business for which application is made and with
8 [~~neighborhood enterprise associations and~~] other local groups or
9 businesses to achieve the public purposes of this chapter; and

10 (2) the effort of the qualified business and other
11 affected entities to cooperate in achieving those public purposes.

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

20 SECTION 3.13. Subchapter F, Chapter 2303, Government Code,
21 is amended by adding Sections 2303.4051 and 2303.4052 to read as
22 follows:

23 Sec. 2303.4051. ORDINANCE OR ORDER FOR IDENTIFICATION OF
24 LOCAL INCENTIVES. (a) In this section, "local incentive" means
25 each tax incentive, grant, other financial incentive or benefit, or
26 program to be provided by the governing body to business
27 enterprises in the block group and any other local incentive listed

1 in Section 2303.511.

2 (b) Before nominating the project or activity of a qualified
3 business for designation as an enterprise project, the governing
4 body of the municipality or county in which the business is located,
5 by ordinance or order, as appropriate, must identify and summarize
6 briefly any local incentives available:

7 (1) in each of the block groups or other areas within
8 its jurisdiction that qualify as an enterprise zone under Section
9 2303.101, if any; and

10 (2) in any area within its jurisdiction that does not
11 qualify as an enterprise zone.

12 (c) The ordinance or order must:

13 (1) state whether the project or activity to be
14 nominated as an enterprise project is located in an area designated
15 as an enterprise zone under this chapter;

16 (2) summarize briefly the local incentives, including
17 tax incentives, that, at the election of the governing body, are or
18 will be made available to the nominated project or activity of the
19 qualified business; and

20 (3) nominate a project or activity as an enterprise
21 project.

22 (d) At least one of the local incentives summarized under
23 Subsection (b)(1) must not apply throughout the nominating
24 governmental entity.

25 (e) Unless the nominating body holds a public hearing before
26 adopting an ordinance or order under this section, the ordinance or
27 order is not valid.

1 (f) If the nominating body has previously nominated a
2 project or activity for designation as an enterprise project, the
3 nominating body, instead of issuing a new ordinance or order under
4 this section for a nominated project or activity, may by resolution
5 make a reference to a previously issued ordinance or order that met
6 the requirements of this section if:

7 (1) the resolution nominates the project or activity
8 for designation as an enterprise project and states whether the
9 nominated project or activity is located in an area designated as an
10 enterprise zone;

11 (2) the local incentives described in the previously
12 issued ordinance or order for the areas described by Subsections
13 (b)(1) and (2) are substantially the same on the date the resolution
14 is issued; and

15 (3) the local incentives to be made available to the
16 nominated project or activity are the same as those made available
17 to the project or activity that are the subject of the previously
18 issued ordinance or order.

19 (g) This section does not prohibit a municipality or county
20 from extending additional incentives, including tax incentives,
21 for business enterprises in an enterprise zone by a separate order
22 or ordinance.

23 Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY.
24 Before nominating the project or activity of a qualified business
25 for designation as an enterprise project, the nominating body must
26 submit to the bank:

27 (1) a certified copy of the ordinance or order, as

1 appropriate, or reference to an ordinance or order as required by
2 Section 2303.4051;

3 (2) a transcript of all public hearings conducted with
4 respect to local incentives available to business enterprises
5 within the jurisdiction of the governmental entity nominating the
6 project or activity, regardless of whether those business
7 enterprises are located in an enterprise zone;

8 (3) the name, title, address, telephone number, and
9 electronic mail address of the nominating body's liaison designated
10 under Section 2303.204; and

11 (4) any additional information the bank may require.

12 SECTION 3.14. Section 2303.406, Government Code, is amended
13 to read as follows:

14 Sec. 2303.406. ENTERPRISE PROJECT DESIGNATION. (a) The
15 bank [department] may designate a project or activity of a business
16 as an enterprise project only if the bank receives all of the
17 information required by Section 2303.4052 and [department]
18 determines that:

19 (1) the business is a qualified business under Section
20 2303.402 that is located in or has made a substantial commitment to
21 locate in an enterprise zone or at a qualified business site
22 [described by Section 2303.404(b)];

23 (2) the nominating [governing] body [of the enterprise
24 zone] making the application has demonstrated that a high level of
25 cooperation exists among public, private, and neighborhood
26 entities within the jurisdiction of the governmental entity
27 nominating the project or activity [in the zone];

1 (3) the designation will contribute significantly to
2 the achievement of the plans of the nominating [~~governing~~] body
3 making the application for development and revitalization of the
4 area in which the enterprise project will be located [~~zone~~]; and

5 (4) if the business is seeking job retention benefits:

6 (A) the permanent employees of the business will
7 be permanently laid off;

8 (B) the business will close down permanently;

9 (C) the business will relocate out-of-state;

10 (D) a 10 percent increase in the production
11 capacity of the business will occur;

12 (E) a 10 percent decrease in overall cost per
13 unit produced will occur; [~~or~~]

14 (F) the business facility has been legitimately
15 destroyed or impaired because of fire, flood, tornado, hurricane,
16 or any other natural disaster; or

17 (G) the business facility is both adding a new
18 business line or product and deleting or decreasing an existing
19 business line or product, and the designation will prevent the
20 facility's net production capacity from decreasing.

21 (b) This subsection does not apply to a qualified business
22 located in a federally designated zone, as described by Section
23 2303.101(2), which will receive priority designation in allocating
24 the number of enterprise projects allowed statewide per biennium as
25 provided by Section 2303.403. The bank [~~department~~] shall
26 designate qualified businesses as enterprise projects on a
27 competitive basis. The bank [~~department~~] shall [~~establish a~~

1 ~~minimum scoring threshold that must be met by the qualified~~
2 ~~business applying for a project designation and~~ make its
3 designation decisions using a weighted scale in which:

4 (1) 40 ~~[50]~~ percent of the evaluation depends on the
5 economic distress of ~~[+~~

6 ~~[(A)]~~ the block group ~~[enterprise zone]~~ in which
7 a proposed enterprise project is located; ~~[and~~

8 ~~[(B) the area within the enterprise zone where~~
9 ~~the project is located,]~~

10 (2) 25 percent of the evaluation depends on the local
11 effort to achieve development and revitalization of the block group
12 in which a proposed enterprise project is located ~~[enterprise~~
13 ~~zone]; and~~

14 (3) 35 ~~[25]~~ percent of the evaluation depends on the
15 evaluation criteria as determined by the bank ~~[department]~~, which
16 must include:

17 (A) the level of cooperation and support the
18 project applicant commits to the revitalization goals of all of the
19 enterprise zone block groups within the jurisdiction of the
20 nominating governmental entity ~~[zone]; and~~

21 (B) the type and wage level of the jobs to be
22 created or retained by the business.

23 (c) The bank ~~[department]~~ may remove an enterprise project
24 designation if it determines that the business is not complying
25 with a requirement for its designation.

26 (d) The maximum number of enterprise projects ~~[qualified~~
27 ~~businesses]~~ that the bank ~~[department]~~ may designate ~~[as enterprise~~

1 ~~projects]~~ for each nominating body during any biennium is:

2 (1) four, plus two additional bonus projects the bank
3 ~~[department]~~ may award in a municipality or county with a
4 population of less than 250,000; or

5 (2) six, if the nominating ~~[governing]~~ body ~~[of the~~
6 ~~enterprise zone]~~ is the governing body of a municipality or county
7 with a population of 250,000 or more.

8 (e) The office may designate multiple concurrent enterprise
9 projects to a qualified business during any biennium.

10 (f) An approved designation as a double jumbo enterprise
11 project, as defined by Section 2303.407, counts as two project
12 designations against both the nominating body for purposes of
13 Subsection (d) and the number of enterprise project designations
14 allowed statewide per biennium under Section 2303.403. An approved
15 designation as a triple jumbo enterprise project, as defined by
16 Section 2303.407, counts as three project designations against both
17 the nominating body for purposes of Subsection (d) and the number of
18 enterprise project designations allowed statewide per biennium
19 under Section 2303.403.

20 SECTION 3.15. Section 2303.407, Government Code, as amended
21 by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular
22 Session, 2001, is amended to read as follows:

23 Sec. 2303.407. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.

24 (a) The bank ~~[When the department designates a business as an~~
25 ~~enterprise project, the department]~~ shall allocate to an enterprise
26 ~~[the]~~ project the maximum number of new permanent jobs or retained
27 jobs eligible based on the amount of capital investment made in the

1 project and the refund per job with a maximum refund to be included
2 in a computation of a tax refund for the project[. ~~The number may~~
3 ~~not exceed 250 or a number equal to 110 percent of the number of~~
4 ~~anticipated new permanent jobs or retained jobs specified in the~~
5 ~~application for designation of the business as an enterprise~~
6 ~~project under Section 2303.405, whichever is less].~~

7 (b) A capital investment in a project of:

8 (1) \$40,000 to \$399,999 will result in a refund of up
9 to \$2,500 per job with a maximum refund of \$25,000 for the creation
10 or retention of 10 jobs;

11 (2) \$400,000 to \$999,999 will result in a refund of up
12 to \$2,500 per job with a maximum refund of \$62,500 for the creation
13 or retention of 25 jobs;

14 (3) \$1,000,000 to \$4,999,999 will result in a refund
15 of up to \$2,500 per job with a maximum refund of \$312,500 for the
16 creation or retention of 125 jobs;

17 (4) \$5,000,000 to \$149,999,999 will result in a refund
18 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
19 creation or retention of 500 jobs;

20 (5) \$150,000,000 to \$249,999,999 will result in a
21 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
22 for the creation or retention of 500 jobs; or

23 (6) \$250,000,000 or more will result in a refund of up
24 to \$7,500 per job with a maximum refund of \$3,750,000 for the
25 creation or retention of 500 jobs.

26 (c) A capital investment in the range amount and the
27 creation or retention of the number of jobs described by Subsection

1 (b)(5) is considered a double jumbo enterprise project.

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

5 SECTION 3.16. Section 2303.407, Government Code, as amended
6 by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular
7 Session, 2001, is amended to read as follows:

8 Sec. 2303.407. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.

9 (a) The bank [~~When the department designates a business as an~~
10 ~~enterprise project, the department]~~ shall allocate to an enterprise
11 ~~[the]~~ project the maximum number of new permanent jobs or retained
12 jobs eligible based on the amount of capital investment made in the
13 project and the refund per job with a maximum refund to be included
14 in a computation of a tax refund for the project [~~. The number may~~
15 ~~not exceed 625 or a number equal to 110 percent of the number of~~
16 ~~anticipated new permanent jobs or retained jobs specified in the~~
17 ~~application for designation of the business as an enterprise~~
18 ~~project under Section 2303.405, whichever is less)].~~

19 (b) A capital investment in a project of:

20 (1) \$40,000 to \$399,999 will result in a refund of up
21 to \$2,500 per job with a maximum refund of \$25,000 for the creation
22 or retention of 10 jobs;

23 (2) \$400,000 to \$999,999 will result in a refund of up
24 to \$2,500 per job with a maximum refund of \$62,500 for the creation
25 or retention of 25 jobs;

26 (3) \$1,000,000 to \$4,999,999 will result in a refund
27 of up to \$2,500 per job with a maximum refund of \$312,500 for the

1 creation or retention of 125 jobs;

2 (4) \$5,000,000 to \$149,999,999 will result in a refund
3 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
4 creation or retention of 500 jobs;

5 (5) \$150,000,000 to \$249,999,999 will result in a
6 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
7 for the creation or retention of 500 jobs; or

8 (6) \$250,000,000 or more will result in a refund of up
9 to \$7,500 per job with a maximum refund of \$3,750,000 for the
10 creation or retention of 500 jobs.

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

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

17 SECTION 3.17. Subchapter F, Chapter 2303, Government Code,
18 is amended by adding Sections 2303.4071 and 2303.4072 to read as
19 follows:

20 Sec. 2303.4071. MAXIMUM TAX REFUND. (a) In this section,
21 "double jumbo enterprise project" and "triple jumbo enterprise
22 project" have the meanings assigned by Section 2303.407.

23 (b) An enterprise project is eligible for a maximum refund
24 of \$250,000 in each state fiscal year.

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

27 (d) A triple jumbo enterprise project is eligible for a

1 maximum refund of \$750,000 in each state fiscal year.

2 Sec. 2303.4072. ENTERPRISE PROJECT CLAIM FOR STATE BENEFIT.

3 A person must make a claim to the comptroller for a state benefit as
4 prescribed under this chapter and Chapters 151 and 171, Tax Code,
5 not later than 18 months after the date on which the term of the
6 enterprise project designation expires as provided by Section
7 2303.404.

8 SECTION 3.18. Section 2303.408, Government Code, is amended
9 to read as follows:

10 Sec. 2303.408. DURATION OF CERTAIN DESIGNATIONS. The
11 bank's [department's] designation of the project or activity of a
12 qualified business as an enterprise project is effective until the
13 period approved by the bank under Section 2303.404 [the fifth
14 anniversary of the date on which the designation is made]
15 regardless of whether the enterprise zone in which the project is
16 located, if any, fails to qualify as an enterprise zone [expires]
17 before the expiration [fifth anniversary] of the project.

18 SECTION 3.19. Subsection (a), Section 2303.501, Government
19 Code, is amended to read as follows:

20 (a) A state agency may exempt from its regulation a
21 qualified business, qualified employee, or qualified property [~~or~~
22 ~~neighborhood enterprise association]~~ in an enterprise zone if the
23 exemption is consistent with:

- 24 (1) the purposes of this chapter; and
25 (2) the protection and promotion of the general health
26 and welfare.

27 SECTION 3.20. Subsections (b) and (c), Section 2303.502,

1 Government Code, are amended to read as follows:

2 (b) Annually each state agency shall:

3 (1) review the rules it administers that:

4 (A) may adversely affect:

5 (i) the renovation, improvement, or new
6 construction of housing in enterprise zones; or

7 (ii) the economic viability and
8 profitability of business and commerce in enterprise zones; or

9 (B) may otherwise affect the implementation of
10 this chapter; and

11 (2) report the results of the review to the bank
12 [~~department~~].

13 (c) The bank [~~department~~] shall disseminate the reports to
14 the governing bodies of enterprise zones and others as necessary to
15 advance the purposes of this chapter.

16 SECTION 3.21. Subsection (d), Section 2303.503, Government
17 Code, is amended to read as follows:

18 (d) The office [~~department~~] may give preference to
19 enterprise zones in granting economic development money or other
20 benefits.

21 SECTION 3.22. Subsections (b) and (c), Section 2303.504,
22 Government Code, as amended by Article 1, Chapter 1134, Acts of the
23 77th Legislature, Regular Session, 2001, are amended to read as
24 follows:

25 (b) At the time of receipt of any tax benefit available as a
26 result of participating in the enterprise zone program, including a
27 state sales and use tax refund or franchise tax credit, three

1 percent of the amount of the tax benefit shall be transferred to the
 2 Texas economic development bank fund under Subchapter B, Chapter
 3 489, to defray the cost of administering this chapter [~~Subject to~~
 4 ~~Section 2303.516, a qualified business is entitled to a refund of~~
 5 ~~state taxes under Sections 151.431 and 171.501, Tax Code)].~~

6 (c) Not later than the 60th day after the last day of each
 7 fiscal year, the comptroller shall report to the bank [~~department~~]
 8 the statewide total of actual jobs created, actual jobs retained,
 9 and the tax refunds and credits made under this section during that
 10 fiscal year.

11 SECTION 3.23. Subsections (b) and (c), Section 2303.504,
 12 Government Code, as amended by Article 2, Chapter 1134, Acts of the
 13 77th Legislature, Regular Session, 2001, are amended to read as
 14 follows:

15 (b) At the time of receipt of any tax benefit available as a
 16 result of participating in the enterprise zone program, including a
 17 state sales and use tax refund or franchise tax credit, three
 18 percent of the amount of the tax benefit shall be transferred to the
 19 Texas economic development bank fund under Subchapter B, Chapter
 20 489, to defray the cost of administering this chapter [~~Subject to~~
 21 ~~Section 2303.516, a qualified business is entitled to a refund of~~
 22 ~~state taxes under Sections 151.431 and 171.501, Tax Code)].~~

23 (c) Not later than the 60th day after the last day of each
 24 fiscal year, the comptroller shall report to the bank [~~department~~]
 25 the statewide total of actual jobs created, actual jobs retained,
 26 and the tax refunds made under this section during that fiscal year.

27 SECTION 3.24. Subsections (a) and (b), Section 2303.513,

1 Government Code, are amended to read as follows:

2 (a) After an area is designated as an enterprise zone, the
3 state, a municipality, or a county that owns a surplus building or
4 vacant land in the zone may dispose of the building or land by:

5 (1) selling the building or land at a public auction;
6 or

7 (2) [~~selling the land to a neighborhood enterprise~~
8 ~~association, or~~

9 [~~(3)~~] establishing an urban homestead program
10 described by Subsection (c).

11 (b) A municipality or county may sell a surplus building or
12 vacant land in the enterprise zone at less than fair market value if
13 the governing body of the municipality or county by ordinance or
14 order, as appropriate, adopts criteria that specify the conditions
15 and circumstances under which the sale may occur and the public
16 purpose to be achieved by the sale. The building or land may be sold
17 to a buyer who is not the highest bidder if the criteria and public
18 purpose specified in the ordinance or order are satisfied. A copy
19 of the ordinance or order must be filed with the bank [~~department~~]
20 not later than the day on which the sale occurs.

21 SECTION 3.25. Section 2303.516, Government Code, is amended
22 to read as follows:

23 Sec. 2303.516. MONITORING QUALIFIED BUSINESS OR ENTERPRISE
24 PROJECT COMMITMENTS. (a) The bank [~~department~~] may monitor a
25 qualified business or enterprise project to determine whether and
26 to what extent the business or project has followed through on any
27 commitments made by it or on its behalf under this chapter.

1 (b) The bank [~~department~~] may determine that the business or
2 project is not entitled to a refund or credit of state taxes under
3 Section 2303.504 if the bank [~~department~~] finds that:

4 (1) the business or project is not willing to
5 cooperate with the bank [~~department~~] in providing the bank
6 [~~department~~] with the information the bank [~~department~~] needs to
7 make the determination under Subsection (a); or

8 (2) the business or project has substantially failed
9 to follow through on any commitments made by it or on its behalf
10 under this chapter.

11 (c) On the date on which a certificate of occupancy is
12 issued with respect to an enterprise project or at the completion of
13 the enterprise project designation period as indicated by the
14 approved application, the nominating body shall monitor the
15 qualified business to determine whether the business or project has
16 followed through on any commitments or goals made by it or on its
17 behalf in the designation application. On completion, the
18 nominating body shall submit a report of its findings to the bank
19 and comptroller.

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

25 SECTION 3.26. Subchapter G, Chapter 2303, Government Code,
26 is amended by adding Section 2303.517 to read as follows:

27 Sec. 2303.517. REPORT. Before obtaining a state benefit,

1 the qualified business must submit to the bank a certified report of
2 the actual number of jobs created or retained and the capital
3 investment made at or committed to the qualified business site.

4 SECTION 3.27. Section 2310.001, Government Code, is amended
5 by amending Subdivision (1) and adding Subdivisions (1-a) and (4-a)
6 to read as follows:

7 (1) "Bank" means the Texas Economic Development Bank
8 established under Chapter 489.

9 (1-a) "Defense worker" means:

10 (A) an employee of the United States Department
11 of Defense, including a member of the armed forces and a government
12 civilian worker;

13 (B) an employee of a government agency or private
14 business, or an entity providing a department of defense related
15 function, who is employed on a defense facility;

16 (C) an employee of a business that provides
17 direct services or products to the department of defense and whose
18 job is directly dependent on defense expenditures; or

19 (D) an employee or private contractor employed by
20 the United States Department of Energy working on a defense or
21 department of energy facility in support of a department of defense
22 related project.

23 (4-a) "Office" means the Texas Economic Development
24 and Tourism Office.

25 SECTION 3.28. Section 2310.051, Government Code, is amended
26 to read as follows:

27 Sec. 2310.051. GENERAL POWERS AND DUTIES. (a) The bank

1 ~~[department]~~ shall administer and monitor the implementation of
2 this chapter.

3 (b) The bank ~~[department]~~ shall establish criteria and
4 procedures for designating a qualified area as a readjustment zone
5 and for designating a defense readjustment project.

6 (c) The office ~~[department]~~ shall adopt rules necessary to
7 carry out the purposes of this chapter.

8 SECTION 3.29. Section 2310.052, Government Code, is amended
9 to read as follows:

10 Sec. 2310.052. EVALUATION; REPORT. (a) The bank
11 ~~[department]~~ shall conduct a continuing evaluation of the programs
12 of readjustment zones.

13 (b) On or before December 1 of each year, the office
14 ~~[department]~~ shall submit to the governor, the legislature, and the
15 Legislative Budget Board a report that:

16 (1) evaluates the effectiveness of the readjustment
17 zone program;

18 (2) describes the use of state and local incentives
19 under this chapter and their effect on revenue; and

20 (3) suggests legislation, as appropriate.

21 SECTION 3.30. Section 2310.053, Government Code, is amended
22 to read as follows:

23 Sec. 2310.053. ASSISTANCE. (a) The bank ~~[department]~~
24 shall assist:

25 (1) a qualified business in obtaining the benefits of
26 any state incentive or inducement program provided by law;

27 (2) the governing body of a readjustment zone in

1 obtaining assistance from another state agency, including job
2 training and technical assistance to qualified businesses in a
3 zone; and

4 (3) the governing body of a readjustment zone in
5 encouraging small business development.

6 (b) The bank [~~department~~] shall provide to persons desiring
7 to locate and engage in business in a readjustment zone information
8 and appropriate assistance relating to the required legal
9 authorization, including a state license, permit, certificate,
10 approval, registration, or charter, to engage in business in this
11 state.

12 (c) The bank [~~department~~] shall publicize existing tax
13 incentives and economic development programs in readjustment
14 zones.

15 (d) On request the bank [~~department~~] shall offer to a unit
16 of local government having a readjustment zone within its
17 jurisdiction technical assistance relating to tax abatement and the
18 development of alternative revenue sources.

19 SECTION 3.31. Section 2310.054, Government Code, is amended
20 to read as follows:

21 Sec. 2310.054. COORDINATION WITH OTHER GOVERNMENTAL
22 ENTITIES. (a) In cooperation with the appropriate units of local
23 government and other state agencies, the bank [~~department~~] shall
24 coordinate and streamline state business assistance programs and
25 permit or license application procedures for businesses in
26 readjustment zones.

27 (b) The bank [~~department~~] shall work with the responsible

1 state and federal agencies to coordinate readjustment zone programs
2 with other programs carried out in a readjustment zone, including
3 housing, community and economic development, small business,
4 banking, financial assistance, transportation, and employment
5 training programs.

6 (c) The bank [~~department~~] shall encourage other state
7 agencies in awarding grants, loans, or services to give priority to
8 businesses in readjustment zones.

9 SECTION 3.32. Section 2310.102, Government Code, is amended
10 to read as follows:

11 Sec. 2310.102. ADVERSELY AFFECTED DEFENSE-DEPENDENT
12 COMMUNITY. A municipality or county is an adversely affected
13 defense-dependent community if the bank [~~department~~] determines
14 that:

15 (1) the municipality or county requires assistance
16 because of:

17 (A) the proposed or actual establishment,
18 realignment, or closure of a defense facility;

19 (B) the cancellation or termination of a United
20 States Department of Defense contract or the failure of the
21 department of defense to proceed with an approved major weapon
22 system program;

23 (C) a publicly announced planned major reduction
24 in department of defense spending that would directly and adversely
25 affect the municipality or county; or

26 (D) the closure or a significant reduction of the
27 operations of a defense facility as the result of a merger,

1 acquisition, or consolidation of a defense contractor operating the
2 facility; and

3 (2) the municipality or county is expected to
4 experience, during the period between the beginning of the federal
5 fiscal year during which an event described by Subdivision (1) is
6 finally approved and the date that the event is to be substantially
7 completed, a direct loss of:

8 (A) 2,500 or more defense worker jobs in any area
9 of the municipality or county that is located in an urbanized area
10 of a metropolitan statistical area;

11 (B) 1,000 or more defense worker jobs in any area
12 of the municipality or county that is not located in an urbanized
13 area of a metropolitan statistical area; or

14 (C) one percent of the civilian jobs in the
15 municipality or county.

16 SECTION 3.33. Subsections (a) and (b), Section 2310.105,
17 Government Code, are amended to read as follows:

18 (a) For an area to be designated as a readjustment zone, the
19 nominating body, after nominating the area as a readjustment zone,
20 must send to the bank [~~department~~] a written application for
21 designation of the area as a readjustment zone.

22 (b) The application must include:

23 (1) a certified copy of the ordinance or order, as
24 appropriate, nominating the area as a readjustment zone;

25 (2) a map of the area showing existing streets and
26 highways;

27 (3) an analysis and appropriate supporting documents

1 and statistics demonstrating that the area qualifies for
2 designation as a readjustment zone;

3 (4) a statement that specifies each tax incentive,
4 grant, other financial incentive or benefit, or program to be
5 provided by the nominating body to business enterprises in the area
6 that is not to be provided throughout the governmental entity or
7 entities nominating the area as a readjustment zone;

8 (5) a statement of the economic development and
9 planning objectives for the area;

10 (6) an estimate of the economic impact of the
11 designation of the area as a readjustment zone on the revenues of
12 the governmental entity or entities nominating the area as a
13 readjustment zone, considering all the financial incentives and
14 benefits and the programs contemplated;

15 (7) a transcript or tape recording of all public
16 hearings on the proposed zone;

17 (8) if the application is a joint application, a
18 description and copy of the agreement between the applicants;

19 (9) the procedures for negotiating with residents,
20 community groups, and other entities affected by the designation of
21 the area as a readjustment zone and with qualified businesses in the
22 area;

23 (10) a description of the administrative authority, if
24 one is to be appointed for the readjustment zone under Section
25 2310.202; and

26 (11) any additional information the bank [~~department~~]
27 requires.

1 SECTION 3.34. Section 2310.106, Government Code, is amended
2 to read as follows:

3 Sec. 2310.106. REVIEW OF APPLICATION. (a) On receipt of
4 an application for the designation of a readjustment zone, the bank
5 [~~department~~] shall review the application to determine if the
6 nominated area qualifies for designation as a readjustment zone
7 under this chapter.

8 (b) The bank [~~department~~] shall allow an applicant to
9 correct any omission or clerical error in the application and to
10 return the application to the bank [~~department~~] on or before the
11 15th day after the date on which the bank [~~department~~] receives the
12 application.

13 SECTION 3.35. Subsections (a), (c), and (d), Section
14 2310.107, Government Code, are amended to read as follows:

15 (a) If the bank [~~department~~] determines that a nominated
16 area for which a designation application has been received
17 satisfies the criteria under Section 2310.101, the bank
18 [~~department~~] shall negotiate with the nominating body for a
19 designation agreement.

20 (c) The bank [~~department~~] shall complete the negotiations
21 and sign the agreement not later than the 60th day after the date on
22 which the application is received unless the bank [~~department~~]
23 extends that period to the 90th day after the date on which the
24 application was received.

25 (d) If an agreement is not completed within the 60-day
26 period provided by Subsection (c), the bank [~~department~~] shall
27 provide to the nominating body the specific areas of concern and a

1 final proposal for the agreement.

2 SECTION 3.36. Section 2310.108, Government Code, is amended
3 to read as follows:

4 Sec. 2310.108. DENIAL OF APPLICATION; NOTICE. (a) The
5 bank [~~department~~] may deny an application for the designation of a
6 readjustment zone only if the bank [~~department~~] determines that the
7 nominated area does not satisfy the criteria under Section
8 2310.101.

9 (b) The bank [~~department~~] shall inform the nominating body
10 of the specific reasons for denial of an application, including
11 denial under Section 2310.107(e).

12 SECTION 3.37. Subsections (b) and (e), Section 2310.110,
13 Government Code, are amended to read as follows:

14 (b) The amended boundary:

15 (1) must be continuous;

16 (2) may not exceed the original size requirement of
17 Section 2310.101; and

18 (3) may not exclude any qualified business designated
19 as a defense readjustment project [~~area originally~~] included within
20 the boundary of the zone as designated.

21 (e) For each amendment of a readjustment zone boundary, the
22 nominating body shall pay the bank [~~department~~] a reasonable fee,
23 in an amount specified by the bank [~~department~~], not to exceed \$500.
24 The bank [~~department~~] may use fees collected under this subsection
25 to administer this chapter and for other purposes to advance this
26 chapter.

27 SECTION 3.38. Subsection (a), Section 2310.111, Government

1 Code, is amended to read as follows:

2 (a) The bank [~~department~~] may remove the designation of an
3 area as a readjustment zone if:

4 (1) the area no longer meets the criteria for
5 designation under this chapter or by [~~department~~] rule of the
6 office adopted under this chapter; or

7 (2) the bank [~~department~~] determines that the
8 governing body of the readjustment zone has not complied with
9 commitments made in the ordinance or order nominating the area as a
10 readjustment zone.

11 SECTION 3.39. Section 2310.203, Government Code, is amended
12 to read as follows:

13 Sec. 2310.203. LIAISON. The governing body of a
14 readjustment zone shall designate a liaison to communicate and
15 negotiate with:

- 16 (1) the bank [~~department~~];
17 (2) the administrative authority, if one exists;
18 (3) a defense readjustment project; and
19 (4) other entities in or affected by the readjustment
20 zone.

21 SECTION 3.40. Subsection (a), Section 2310.204, Government
22 Code, is amended to read as follows:

23 (a) Not later than October 1 of each year, the governing
24 body of a readjustment zone shall submit to the bank [~~department~~] a
25 report in the form required by the bank [~~department~~].

26 SECTION 3.41. Subsection (a), Section 2310.302, Government
27 Code, is amended to read as follows:

1 (a) A person is a qualified business if the bank
2 [~~department~~], for the purpose of state benefits under this chapter,
3 or the governing body of a readjustment zone, for the purpose of
4 local benefits, certifies that:

5 (1) the person is engaged in or has provided
6 substantial commitment to initiate the active conduct of a trade or
7 business in the readjustment zone; and

8 (2) at least 25 percent of the person's new employees
9 in the readjustment zone are:

10 (A) residents of the governing jurisdiction;

11 (B) economically disadvantaged individuals, as
12 defined by Section 2303.402(c); or

13 (C) dislocated defense workers.

14 SECTION 3.42. Sections 2310.303 and 2310.304, Government
15 Code, are amended to read as follows:

16 Sec. 2310.303. PROHIBITION ON QUALIFIED BUSINESS
17 CERTIFICATION. If the bank [~~department~~] determines that the
18 governing body of a readjustment zone is not complying with this
19 chapter, the bank [~~department~~] shall prohibit the certification of
20 a qualified business in the zone until the bank [~~department~~]
21 determines that the governing body is complying with this chapter.
22 The bank [~~department~~] may not designate more than two defense
23 readjustment projects [~~businesses~~] in a single readjustment zone
24 [~~as defense readjustment projects~~].

25 Sec. 2310.304. REQUEST FOR APPLICATION FOR DEFENSE
26 READJUSTMENT PROJECT DESIGNATION. A qualified business in a
27 readjustment zone may request that the governing body of the

1 readjustment zone apply to the bank [~~department~~] for designation of
2 the business as a defense readjustment project. The request must
3 also be made to the readjustment zone's administrative authority,
4 if one exists.

5 SECTION 3.43. Subsections (a) and (b), Section 2310.305,
6 Government Code, are amended to read as follows:

7 (a) If the governing body of a readjustment zone or the
8 governing body and administrative authority of a readjustment zone,
9 as appropriate, approve a request made under Section 2310.304, the
10 governing body may apply to the bank [~~department~~] for the
11 designation of the qualified business as a defense readjustment
12 project.

13 (b) An application must:

14 (1) describe the procedures and efforts of the
15 governmental entity or entities that applied to have the area
16 designated as a readjustment zone to facilitate and encourage
17 participation by and negotiation among affected entities in the
18 zone in which the qualified business is located;

19 (2) contain an economic analysis of the plans of the
20 qualified business for expansion, revitalization, or other
21 activity in the readjustment zone, including:

22 (A) the number of anticipated new permanent jobs
23 the business will create;

24 (B) the anticipated number of permanent jobs the
25 business will retain;

26 (C) the amount of investment to be made in the
27 zone; and

1 (D) other information the bank [~~department~~]
2 requires; and

3 (3) describe the local effort made by the governmental
4 entity or entities that applied to have the area designated as a
5 readjustment zone, the administrative authority, if one exists, the
6 qualified business, and other affected entities to develop and
7 revitalize the zone.

8 SECTION 3.44. Sections 2310.306, 2310.307, and 2310.308,
9 Government Code, are amended to read as follows:

10 Sec. 2310.306. DEFENSE READJUSTMENT PROJECT DESIGNATION.

11 (a) The bank [~~department~~] may designate a qualified business as a
12 defense readjustment project only if the bank [~~department~~]
13 determines that:

14 (1) the business is a qualified business under Section
15 2310.302 that is located in or has made a substantial commitment to
16 locate in a defense readjustment zone;

17 (2) the governing body of the readjustment zone making
18 the application has demonstrated that a high level of cooperation
19 exists among public, private, and neighborhood entities in the
20 zone; and

21 (3) the designation will contribute significantly to
22 the achievement of the plans of the governing body making the
23 application for development and revitalization of the zone.

24 (b) The bank [~~department~~] shall designate qualified
25 businesses as defense readjustment projects on a competitive basis.
26 The bank [~~department~~] shall make its designation decisions using a
27 weighted scale in which:

1 (1) 50 percent of the evaluation is based on the effect
2 of the loss of defense expenditures and employment on the
3 community;

4 (2) 25 percent of the evaluation depends on the local
5 effort to achieve development and revitalization of the
6 readjustment zone; and

7 (3) 25 percent of the evaluation depends on the
8 evaluation criteria as determined by the bank [~~department~~], which
9 must include:

10 (A) the level of cooperation and support the
11 project applicant commits to the revitalization goals of the zone;
12 and

13 (B) the type and wage level of the jobs to be
14 created or retained by the business.

15 (c) The bank [~~department~~] may remove a defense readjustment
16 project designation if it determines that the business is not
17 complying with a requirement for its designation.

18 (d) The bank may designate the same qualified business in a
19 readjustment zone as more than one defense readjustment project.

20 Sec. 2310.307. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.
21 When the bank [~~department~~] designates a business as a defense
22 readjustment project, the bank [~~department~~] shall allocate to the
23 project the maximum number of new permanent jobs or retained jobs
24 eligible to be included in a computation of a tax refund for the
25 project. The number may not exceed 500 or a number equal to 110
26 percent of the number of anticipated new permanent jobs or retained
27 jobs specified in the application for designation of the business

1 as a defense readjustment project under Section 2310.305, whichever
2 is less.

3 Sec. 2310.308. DURATION OF CERTAIN DESIGNATIONS. The
4 bank's [~~department's~~] designation of a qualified business as a
5 defense readjustment project is effective until the fifth
6 anniversary of the date on which the designation is made regardless
7 of whether the readjustment zone in which the project is located
8 expires before the fifth anniversary of the project.

9 SECTION 3.45. Subsection (b), Section 2310.402, Government
10 Code, is amended to read as follows:

11 (b) The bank [~~department~~] shall disseminate the reports to
12 the governing bodies of readjustment zones and others as necessary
13 to advance the purposes of this chapter.

14 SECTION 3.46. Subsection (d), Section 2310.403, Government
15 Code, is amended to read as follows:

16 (d) The office [~~department~~] or another state agency may give
17 preference to readjustment zones in granting economic development
18 money or other benefits.

19 SECTION 3.47. Subsection (b), Section 2310.404, Government
20 Code, as amended by Article 1, Chapter 1134, Acts of the 77th
21 Legislature, Regular Session, 2001, is amended to read as follows:

22 (b) Not later than the 60th day after the last day of each
23 fiscal year, the comptroller shall report to the bank [~~department~~]
24 the statewide total of the tax refunds or credits made under this
25 section during that fiscal year.

26 SECTION 3.48. Subsection (b), Section 2310.404, Government
27 Code, as amended by Article 2, Chapter 1134, Acts of the 77th

1 Legislature, Regular Session, 2001, is amended to read as follows:

2 (b) Not later than the 60th day after the last day of each
3 fiscal year, the comptroller shall report to the bank [~~department~~]
4 the statewide total of the tax refunds made under this section
5 during that fiscal year.

6 SECTION 3.49. Subsection (b), Section 2310.410, Government
7 Code, is amended to read as follows:

8 (b) A municipality or county may sell a surplus building or
9 vacant land in the readjustment zone at less than fair market value
10 if the governing body of the municipality or county by ordinance or
11 order, as appropriate, adopts criteria that specify the conditions
12 and circumstances under which the sale may occur and the public
13 purpose to be achieved by the sale. A copy of the ordinance or order
14 must be filed with the bank [~~department~~] not later than the day on
15 which the sale occurs.

16 SECTION 3.50. Section 2310.413, Government Code, is amended
17 to read as follows:

18 Sec. 2310.413. MONITORING DEFENSE READJUSTMENT PROJECT
19 COMMITMENTS. (a) The bank [~~department~~] may monitor a defense
20 readjustment project to determine whether and to what extent the
21 project has followed through on any commitments made by it or on its
22 behalf under this chapter.

23 (b) The bank [~~department~~] may determine that the defense
24 readjustment project is not eligible for state tax refunds and
25 credits under Section 2310.404 if the bank [~~department~~] finds that:

26 (1) the project is not willing to cooperate with the
27 bank [~~department~~] in providing the bank [~~department~~] with the

1 information the bank [~~department~~] needs to make the determination
2 under Subsection (a); or

3 (2) the project has substantially failed to follow
4 through on its commitments made by it or on its behalf under this
5 chapter.

6 SECTION 3.51. Subsections (a) and (b), Section 151.429, Tax
7 Code, as amended by Article 1, Chapter 1134, Acts of the 77th
8 Legislature, Regular Session, 2001, are amended to read as follows:

9 (a) An enterprise project is eligible for a refund in the
10 amount provided by this section of the taxes imposed by this chapter
11 on purchases of:

12 (1) equipment or machinery sold to an enterprise
13 project for use at the qualified business site [~~in an enterprise~~
14 ~~zone~~];

15 (2) building materials sold to an enterprise project
16 for use in remodeling, rehabilitating, or constructing a structure
17 at the qualified business site [~~in an enterprise zone~~];

18 (3) labor for remodeling, rehabilitating, or
19 constructing a structure by an enterprise project at the qualified
20 business site [~~in an enterprise zone~~];

21 (4) electricity and natural gas purchased and consumed
22 in the normal course of business at the qualified business site [~~in~~
23 ~~the enterprise zone~~];

24 (5) tangible personal property purchased and consumed
25 in the normal course of business at the qualified business site [~~in~~
26 ~~the enterprise zone~~]; and

27 (6) taxable services.

1 (b) Subject to the limitations provided by Subsection (c) of
2 this section, an enterprise project qualifies for a refund of taxes
3 under this section based on the amount of capital investment made at
4 the qualified business site and the refund per job with a maximum
5 refund to be included in a computation of a tax refund for the
6 project. A capital investment at the qualified business site of:

7 (1) \$40,000 to \$399,999 will result in a refund of up
8 to \$2,500 per job with a maximum refund of \$25,000 for the creation
9 or retention of 10 jobs;

10 (2) \$400,000 to \$999,999 will result in a refund of up
11 to \$2,500 per job with a maximum refund of \$62,500 for the creation
12 or retention of 25 jobs;

13 (3) \$1,000,000 to \$4,999,999 will result in a refund
14 of up to \$2,500 per job with a maximum refund of \$312,500 for the
15 creation or retention of 125 jobs;

16 (4) \$5,000,000 to \$149,999,999 will result in a refund
17 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
18 creation or retention of 500 jobs;

19 (5) \$150,000,000 to \$249,999,999 will result in a
20 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
21 for the creation or retention of 500 jobs; or

22 (6) \$250,000,000 or more will result in a refund of up
23 to \$7,500 per job with a maximum refund of \$3,750,000 for the
24 creation or retention of 500 jobs [~~of \$5,000 for each new permanent~~
25 ~~job or job that has been retained by the enterprise project for a~~
26 ~~qualified employee~~].

27 SECTION 3.52. Subsections (a) and (b), Section 151.429, Tax

1 Code, as amended by Article 2, Chapter 1134, Acts of the 77th
2 Legislature, Regular Session, 2001, are amended to read as follows:

3 (a) An enterprise project is eligible for a refund in the
4 amount provided by this section of the taxes imposed by this chapter
5 on purchases of:

6 (1) equipment or machinery sold to an enterprise
7 project for use at the qualified business site [~~in an enterprise~~
8 ~~zone~~];

9 (2) building materials sold to an enterprise project
10 for use in remodeling, rehabilitating, or constructing a structure
11 at the qualified business site [~~in an enterprise zone~~];

12 (3) labor for remodeling, rehabilitating, or
13 constructing a structure by an enterprise project at the qualified
14 business site [~~in an enterprise zone~~]; and

15 (4) electricity and natural gas purchased and consumed
16 in the normal course of business at the qualified business site [~~in~~
17 ~~the enterprise zone~~].

18 (b) Subject to the limitations provided by Subsection (c) of
19 this section, an enterprise project qualifies for a refund of taxes
20 under this section based on the amount of capital investment made at
21 the qualified business site and refund per job with a maximum refund
22 to be included in a computation of a tax refund for the project. A
23 capital investment at the qualified business site of:

24 (1) \$40,000 to \$399,999 will result in a refund of up
25 to \$2,500 per job with a maximum refund of \$25,000 for the creation
26 or retention of 10 jobs;

27 (2) \$400,000 to \$999,999 will result in a refund of up

1 to \$2,500 per job with a maximum refund of \$62,500 for the creation
2 or retention of 25 jobs;

3 (3) \$1,000,000 to \$4,999,999 will result in a refund
4 of up to \$2,500 per job with a maximum refund of \$312,500 for the
5 creation or retention of 125 jobs;

6 (4) \$5,000,000 to \$149,999,999 will result in a refund
7 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
8 creation or retention of 500 jobs;

9 (5) \$150,000,000 to \$249,999,999 will result in a
10 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
11 for the creation or retention of 500 jobs; or

12 (6) \$250,000,000 or more will result in a refund of up
13 to \$7,500 per job with a maximum refund of \$3,750,000 for the
14 creation or retention of 500 jobs [~~of \$2,000 for each new permanent~~
15 ~~job or job that has been retained by the enterprise project for a~~
16 ~~qualified employee].~~

17 SECTION 3.53. Section 151.429, Tax Code, is amended by
18 amending Subsections (c), (d), (e), and (g) and adding Subsections
19 (i) and (j) to read as follows:

20 (c) The total amount of tax refund that an enterprise
21 project may apply for in a state fiscal year may not exceed
22 \$250,000. If an enterprise project qualifies in a state fiscal year
23 for a refund of taxes in an amount in excess of the limitation
24 provided by this subsection, it may apply for a refund of those
25 taxes in a subsequent year, subject to the \$250,000 limitation for
26 each year. [~~However, an enterprise project may not apply for a~~
27 ~~refund under this section after the end of the state fiscal year~~

1 ~~immediately following the state fiscal year in which the enterprise~~
2 ~~project's designation as an enterprise project expires or is~~
3 ~~removed.]~~ The total amount that may be refunded to an enterprise
4 project under this section may not exceed the amount determined by
5 multiplying \$250,000 by the number of state fiscal years during
6 which the enterprise project created one or more jobs for qualified
7 employees.

8 (d) To receive a refund under this section, an enterprise
9 project must apply to the comptroller for the refund. The Texas
10 ~~[Department of]~~ Economic Development Bank established under
11 Chapter 489, Government Code, shall provide the comptroller with
12 the assistance that the comptroller requires in administering this
13 section.

14 (e) In this section:

15 (1) "Enterprise project" means a person designated by
16 the Texas ~~[Department of]~~ Economic Development Bank as an
17 enterprise project under Chapter 2303, Government Code.

18 (2) "Enterprise zone," "qualified employee," and
19 "qualified hotel project" have the meanings assigned to those terms
20 by Section 2303.003, Government Code.

21 (3) "New permanent job" means a new employment
22 position created by a qualified business as described by Section
23 2303.402, Government Code, that:

24 (A) has provided at least 1,820 hours of
25 employment a year to a qualified employee; and

26 (B) is intended to exist for at least three years
27 after a state benefit is received ~~[during the period that the~~

1 ~~qualified business is designated as an enterprise project~~] under
2 Chapter 2303, Government Code.

3 (4) "Retained job" has the meaning assigned by Section
4 2303.401, Government Code.

5 (5) "Double jumbo enterprise project" and "triple
6 jumbo enterprise project" have the meanings assigned by Section
7 2303.407, Government Code.

8 (g) The refund provided by this section is conditioned on
9 the enterprise project maintaining at least the same level of
10 employment of qualified employees as existed at the time it
11 qualified for a refund for a period of three years from that date.
12 The comptroller [~~Texas Department of Economic Development~~] shall
13 annually certify [~~to the comptroller~~] whether that level of
14 employment of qualified employees has been maintained. On [~~the~~
15 ~~Texas Department of Economic Development~~] certifying that such a
16 level has not been maintained, the comptroller shall assess that
17 portion of the refund attributable to any such decrease in
18 employment, including penalty and interest from the date of the
19 refund.

20 (i) As provided by Subsection (c), a double jumbo enterprise
21 project is eligible for a maximum refund of \$500,000 and a triple
22 jumbo enterprise project is eligible for a maximum refund of
23 \$750,000 in each state fiscal year.

24 (j) An enterprise project approved by the Texas Economic
25 Development Bank after September 1, 2003, may not receive a refund
26 before September 1, 2005.

27 SECTION 3.54. Subsections (d) and (g), Section 151.4291,

1 Tax Code, are amended to read as follows:

2 (d) To receive a refund under this section, a defense
3 readjustment project must apply to the comptroller for the refund.
4 The Texas [~~Department of~~] Economic Development Bank shall provide
5 the comptroller with the assistance that the comptroller requires
6 in administering this section.

7 (g) The refund provided by this section is conditioned on
8 the defense readjustment project maintaining at least the same
9 level of employment of qualified employees as existed at the time it
10 qualified for a refund for a period of three years from that date.
11 The comptroller [~~Texas Department of Economic Development~~] shall
12 annually certify to [~~the comptroller and~~] the Legislative Budget
13 Board whether that level of employment of qualified employees has
14 been maintained. On [~~the Texas Department of Economic Development~~]
15 certifying that such a level has not been maintained, the
16 comptroller shall assess that portion of the refund attributable to
17 any such decrease in employment, including penalty and interest
18 from the date of the refund.

19 SECTION 3.55. Subdivision (1), Subsection (e), Section
20 151.4291, Tax Code, is amended to read as follows:

21 (1) "Defense readjustment project" means a person
22 designated by the Texas [~~Department of~~] Economic Development Bank
23 as a defense readjustment project under Chapter 2310, Government
24 Code.

25 SECTION 3.56. Subsections (a) and (b), Section 151.431, Tax
26 Code, are amended to read as follows:

27 (a) A qualified business operating in the [~~enterprise~~

1 ~~zone's~~] jurisdiction of the nominating governmental entity for at
 2 least three consecutive years may apply for and be granted a onetime
 3 refund of sales and use tax paid by the qualified business after
 4 certification of the qualified business as provided by Subsection
 5 (b) of this section to a vendor or directly to the state for the
 6 purchase of equipment or machinery sold to the business for use in
 7 an enterprise project [~~zone~~] if the governing body or bodies
 8 certify to the comptroller [~~Texas Department of Economic~~
 9 ~~Development~~] that the business is retaining 10 or more jobs held by
 10 qualified employees during the year. For the purposes of this
 11 subsection "job" means an existing employment position of a
 12 qualified business that has provided employment to a qualified
 13 employee of at least 1,820 hours annually.

14 (b) Only qualified businesses that have been certified as
 15 eligible for a refund under this section by the governing body or
 16 bodies to the [~~department and by the department to the~~]
 17 comptroller, including certification of the number of jobs
 18 retained, are entitled to the refund. [~~During each calendar year,~~
 19 ~~no more than three eligible qualified businesses may be certified~~
 20 ~~to the department by a municipality or county, subject to~~
 21 ~~Subsection (c).~~]

22 SECTION 3.57. Subdivision (2), Subsection (e), Section
 23 151.431, Tax Code, is amended to read as follows:

24 (2) "Governing body" means the governing body of a
 25 municipality or county that applied to have the project or activity
 26 of a qualified business [~~area~~] designated as an enterprise project
 27 [~~zone~~] under Section 2303.405 [~~2303.105~~], Government Code.

1 SECTION 3.58. Subsections (a) and (b), Section 171.501, Tax
2 Code, are amended to read as follows:

3 (a) A corporation that has been certified a qualified
4 business as provided by Chapter 2303, Government Code, may apply
5 for and be granted a refund of franchise tax paid with an initial or
6 annual report if the governing body certifies [~~or bodies certify~~]
7 to the comptroller [~~Texas Department of Economic Development~~] that
8 the business has created 10 or more new jobs [~~in its enterprise~~
9 ~~zone~~] held by qualified employees during the calendar year that
10 contains the end of the accounting period on which the report is
11 based. [~~The Texas Department of Economic Development shall certify~~
12 ~~eligibility for any refund to the comptroller.~~]

13 (b) Only qualified businesses that have been certified as
14 eligible for a refund under this section by the governing body [~~or~~
15 ~~bodies~~] to the [~~department and by the department to the~~]
16 comptroller are entitled to the refund. [~~During each calendar~~
17 ~~year, no more than three eligible qualified businesses may be~~
18 ~~certified to the department by a municipality or county, subject to~~
19 ~~Subsection (c).~~]

20 SECTION 3.59. Subdivision (2), Subsection (e), Section
21 171.501, Tax Code, is amended to read as follows:

22 (2) "Governing body" means the governing body of a
23 municipality or county that applied to have the project or activity
24 of a qualified business [~~area~~] designated as an enterprise project
25 [~~zone~~] under Section 2303.405 [~~2303.105~~], Government Code.

26 SECTION 3.60. Subdivisions (13) and (14), Section 171.751,
27 Tax Code, as amended by Chapter 1134, Acts of the 77th Legislature,

1 Regular Session, 2001, effective September 1, 2003, are amended to
2 read as follows:

3 (13) "Defense readjustment project" means:

4 (A) a person designated by the Texas Department
5 of Economic Development as a defense readjustment project under
6 Chapter 2310, Government Code, on or after September 1, 2001, but
7 before September 1, 2003; and

8 (B) a person designated by the Texas Economic
9 Development Bank as a defense readjustment project under Chapter
10 2310, Government Code, on or after September 1, 2003.

11 (14) "Enterprise project" means:

12 (A) a person designated by the Texas Department
13 of Economic Development as an enterprise project under Chapter
14 2303, Government Code, on or after September 1, 2001, but before
15 September 1, 2003; and

16 (B) a person designated by the Texas Economic
17 Development Bank as an enterprise project under Chapter 2303,
18 Government Code, on or after September 1, 2003.

19 SECTION 3.61. Article 21.49B, Insurance Code, is amended to
20 read as follows:

21 Art. 21.49B. PROPERTY AND CASUALTY INSURANCE INITIATIVES
22 TASK FORCE. The commissioner may establish a task force to study
23 the utility and feasibility of instituting various property and
24 casualty insurance initiatives in this state. The initiatives to
25 be studied may include, but are not limited to:

26 (1) possible coordination with the Texas Economic
27 Development Bank [~~Department of Commerce~~] to make certain property

1 and casualty insurance an enterprise zone program pursuant to
2 Chapter 2303, Government Code;

3 (2) possible coordination with Neighborhood Housing
4 Service (NHS) Programs to establish voluntary NHS-Insurance
5 Industry Partnerships;

6 (3) possible insurance agent programs to increase
7 minority agency access to standard insurance companies, including
8 minority intern programs with insurance companies;

9 (4) possible tax incentives for insurance written in
10 underserved areas; and

11 (5) a consumer education program designed to increase
12 the ability of consumers to differentiate among different products
13 and providers in the property and casualty market.

14 SECTION 3.62. Subsections (b), (d), (f), and (g), Section
15 4, Development Corporation Act of 1979 (Article 5190.6, Vernon's
16 Texas Civil Statutes), are amended to read as follows:

17 (b) There is hereby created the Texas Small Business
18 Industrial Development Corporation which shall act on behalf of the
19 state to carry out the public purposes of this Act. The Texas Small
20 Business Industrial Development Corporation shall be considered to
21 be a corporation within the meaning of this Act, shall be organized
22 and governed in accordance with the provisions of this Act, and
23 shall have all of the powers, and shall be subject to all of the
24 limitations, provided for corporations by this Act, except as
25 otherwise provided by this section. For purposes of this Act, the
26 state shall be considered to be the unit under whose auspices the
27 Texas Small Business Industrial Development Corporation is created

1 ~~[and the department shall be considered to be the governing body]~~.
2 To the extent that the provisions of this section are inconsistent
3 with other provisions of this Act, the provisions of this section
4 shall control as to the existence, powers, limitations,
5 organization, administration, operation, and affairs of the Texas
6 Small Business Industrial Development Corporation.

7 (d) The governor shall appoint ~~[members of the board of the~~
8 ~~department shall serve ex officio as]~~ the board of directors of the
9 Texas Small Business Industrial Development Corporation. The
10 governor or the governor's designee and the executive director of
11 the Texas Economic Development and Tourism Office serve as
12 nonvoting ex officio members of the board.

13 (f) All programs and expenditures of the Texas Small
14 Business Industrial Development Corporation must be approved on
15 behalf of the state by the Texas Economic Development Bank
16 ~~[department]~~. Expenses incurred by the Texas Small Business
17 Industrial Development Corporation in the operation and
18 administration of its programs and affairs, including expenditures
19 for employees and program assistance or development, shall be paid
20 out of fees collected or revenues generated under this Act.

21 (g) The revenues and funds of the Texas Small Business
22 Industrial Development Corporation shall be deposited with one or
23 more financial institutions chosen for that purpose by the board of
24 directors. Funds of the Texas Small Business Industrial
25 Development Corporation may not be used or made available for use by
26 the Texas Economic Development Bank ~~[department]~~ except to
27 reimburse the bank ~~[department]~~ for expenses it incurs in its

1 official capacity on behalf of the Texas Small Business Industrial
2 Development Corporation.

3 SECTION 3.63. The changes in law made by this Act to Chapter
4 2303, Government Code, and Chapters 151 and 171, Tax Code, apply
5 only to an application for a designation under the enterprise zone
6 program under Chapter 2303, Government Code, as amended by this
7 Act, that is filed on or after the effective date of this Act. An
8 application for designation under the enterprise zone program that
9 is filed before the effective date of this Act is governed by the
10 law in effect on the date the application was filed, and the former
11 law is continued in effect for that purpose.

12 SECTION 3.64. This Act does not affect the effective dates
13 of Section 2303.407, Subsections (b) and (c), Section 2303.504,
14 and Subsection (b), Section 2310.404, Government Code, and
15 Subsections (a) and (b), Section 151.429, Tax Code, as amended by
16 Article 2, Chapter 1134, Acts of the 77th Legislature, Regular
17 Session, 2001.

18 ARTICLE 4. CERTAIN ECONOMIC DEVELOPMENT PROGRAMS

19 ADMINISTERED BY TEXASECONOMIC DEVELOPMENT AND TOURISM OFFICE

20 SECTION 4.01. Title 2, Agriculture Code, is amended by
21 adding Chapter 16 to read as follows:

22 CHAPTER 16. FUEL ETHANOL AND BIODIESEL PRODUCTION

23 INCENTIVE PROGRAM

24 Sec. 16.001. DEFINITIONS. In this chapter:

25 (1) "Account" means the fuel ethanol and biodiesel
26 production account.

27 (2) "ASTM" means the American Society for Testing and

1 Materials.

2 (3) "Biodiesel" means a monoalkyl ester that:

3 (A) is derived from vegetable oils, rendered
4 animal fats, or renewable lipids or a combination of those
5 ingredients; and

6 (B) meets the requirements of ASTM PS 121, the
7 provisional specification for biodiesel.

8 (4) "Fuel ethanol" means ethyl alcohol that:

9 (A) has a purity of at least 99 percent,
10 exclusive of added denaturants;

11 (B) has been denatured in conformity with a
12 method approved by the Bureau of Alcohol, Tobacco, Firearms, and
13 Explosives of the United States Department of Justice;

14 (C) meets the requirements of ASTM D4806, the
15 standard specification for ethanol used as a motor fuel; and

16 (D) is produced exclusively from agricultural
17 products or by-products or municipal solid waste.

18 (5) "Office" means the Texas Economic Development and
19 Tourism Office.

20 (6) "Producer" means a person who operates a fuel
21 ethanol or biodiesel plant in this state.

22 Sec. 16.002. PLANT REGISTRATION. (a) To be eligible for a
23 grant for fuel ethanol or biodiesel produced in a plant, a producer
24 must apply to the office for the registration of the plant. A
25 producer may apply for the registration of more than one plant.

26 (b) An application for the registration of a plant must show
27 to the satisfaction of the office that:

1 (1) the plant is capable of producing fuel ethanol or
2 biodiesel;

3 (2) the producer has made a substantial investment of
4 resources in this state in connection with the plant; and

5 (3) the plant constitutes a permanent fixture in this
6 state.

7 (c) The office, after consultation with the department,
8 shall register each plant that qualifies under this section. The
9 office shall notify the department of plants registered under this
10 section.

11 Sec. 16.003. REPORTS. (a) On or before the fifth day of
12 each month, a producer shall report to the office on:

13 (1) the number of gallons of fuel ethanol or biodiesel
14 produced at each registered plant operated by the producer during
15 the preceding month;

16 (2) the number of gallons of fuel ethanol or biodiesel
17 imported into this state by the producer during the preceding
18 month;

19 (3) the number of gallons of fuel ethanol or biodiesel
20 sold or blended with motor fuels by the producer during the
21 preceding month; and

22 (4) the total value of agricultural products consumed
23 in each registered plant operated by the producer during the
24 preceding month.

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

1 (c) The office shall send a copy of each report to the
2 department.

3 Sec. 16.004. FUEL ETHANOL AND BIODIESEL PRODUCTION ACCOUNT.

4 (a) The fuel ethanol and biodiesel production account is an
5 account in the general revenue fund that may be appropriated only to
6 the office for the purposes of this chapter, including the making of
7 grants under this chapter.

8 (b) The account is composed of:

9 (1) fees collected under Section 16.005; and

10 (2) money transferred to the account under Subsection

11 (c).

12 (c) The comptroller shall transfer from the undedicated
13 portion of the general revenue fund to the account an amount of
14 money equal to 5.25 times the amount of the fees collected under
15 Section 16.005.

16 Sec. 16.005. FEE ON FUEL ETHANOL AND BIODIESEL PRODUCTION.

17 (a) The office shall impose a fee on each producer in an amount
18 equal to 3.2 cents for each gallon of fuel ethanol or biodiesel
19 produced in each registered plant operated by the producer.

20 (b) For each fiscal year, the office may not impose fees on a
21 producer for more than 18 million gallons of fuel ethanol or
22 biodiesel produced at any one registered plant.

23 (c) The office shall transfer the fees collected under this
24 section to the comptroller for deposit to the credit of the account.

25 (d) The office may not impose fees on a producer for fuel
26 ethanol or biodiesel produced at a registered plant after the 10th
27 anniversary of the date production from the plant begins.

1 (e) The office may enter into an interagency contract with
2 the department authorizing the department to impose and collect
3 fees on behalf of the office under this section.

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

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

12 (c) For each fiscal year a producer may not receive grants
13 for more than 18 million gallons of fuel ethanol or biodiesel
14 produced at any one registered plant.

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

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

25 SECTION 4.02. Notwithstanding Subsection (c), Section
26 16.004, Agriculture Code, as added by this Act, the comptroller may
27 not make transfers from general revenue under that subsection

1 during the fiscal biennium ending August 31, 2005.

2 ARTICLE 5. SUPPORT FOR MAJOR SPORTS EVENTS

3 SECTION 5.01. Section 1, Chapter 1507, Acts of the 76th
4 Legislature, Regular Session, 1999 (Article 5190.14, Vernon's
5 Texas Civil Statutes), is amended by amending Subdivisions (1),
6 (2), (3), and (5) through (8) and adding Subdivision (1-a) to read
7 as follows:

8 (1) "Department" means the Texas Department of
9 Economic Development or its successor.

10 (1-a) "Endorsing county" means an endorsing county for
11 purposes of Section 5 or 5A of this Act.

12 (2) "Endorsing municipality" means an endorsing [~~a~~]
13 municipality for purposes of Section 4, 5, or 5A of this Act [~~that~~
14 ~~has a population of 850,000 or more according to the most recent~~
15 ~~federal decennial census and that authorizes a bid by a local~~
16 ~~organizing committee for selection of the municipality as the site~~
17 ~~of the 2007 Pan American Games or the 2012 Olympic Games].~~

18 (3) "Games" means the [~~2007~~] Pan American Games, [~~or~~]
19 the [~~2012~~] Olympic Games, the Super Bowl, the National Collegiate
20 Athletic Association Final Four, the National Basketball
21 Association All-Star Game, the National Hockey League All-Star
22 Game, the Major League Baseball All-Star Game, the National
23 Collegiate Athletic Association Bowl Championship Series Games,
24 the World Cup Soccer Games, or the World Games. The term includes
25 the events and activities related to the games.

26 (5) "Joinder agreement" means an agreement entered
27 into by:

1 (A) the department on behalf of this state and a
2 site selection organization setting out representations and
3 assurances by the state in connection with the selection of a site
4 in this state for the location of any of the games; or

5 (B) an endorsing municipality, an endorsing
6 county, or more than one endorsing municipality or county acting
7 collectively and a site selection organization setting out
8 representations and assurances by each [~~the~~] endorsing
9 municipality or county in connection with the selection of a site in
10 this state for the location of any of the games.

11 (6) "Joinder undertaking" means an agreement entered
12 into by:

13 (A) the department on behalf of this state and a
14 site selection organization that the state will execute a joinder
15 agreement in the event that the site selection organization selects
16 a site in this state for any of the games; or

17 (B) an endorsing municipality, an endorsing
18 county, or more than one endorsing municipality or county acting
19 collectively and a site selection organization that each endorsing
20 [~~the~~] municipality or county will execute a joinder agreement in
21 the event that the site selection organization selects a site in
22 this state for any of the games.

23 (7) "Local organizing committee" means a nonprofit
24 corporation or its successor in interest that:

25 (A) has been authorized by an endorsing
26 municipality, endorsing county, or more than one endorsing
27 municipality or county acting collectively to pursue an application

1 and bid on the applicant's behalf to a site selection organization
2 for selection as the site of one or more [~~of the~~] games; or

3 (B) with the authorization of an endorsing
4 municipality, endorsing county, or more that one endorsing
5 municipality or county acting collectively, has executed an
6 agreement with a site selection organization regarding a bid to
7 host one or more [~~of the~~] games.

8 (8) "Site selection organization" means the United
9 States Olympic Committee, the International Olympic Committee,
10 [~~or~~] the Pan American Sports Organization, the National Football
11 League, the National Collegiate Athletic Association, the National
12 Basketball Association, the National Hockey League, Major League
13 Baseball, Federation Internationale de Football Association
14 (FIFA), or the International World Games Association.

15 SECTION 5.02. Sections 2 and 3, Chapter 1507, Acts of the
16 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's
17 Texas Civil Statutes), are amended to read as follows:

18 Sec. 2. PURPOSE. The purpose of this Act is to provide
19 assurances required by a site selection organization sponsoring one
20 or more [~~the~~] games and to provide financing for the costs of:

21 (1) applying or bidding for selection as the site of
22 the games in this state;

23 (2) making the preparations necessary and desirable
24 for the conduct of the games in this state, including the
25 construction or renovation of facilities; and

26 (3) conducting the games in this state.

27 Sec. 3. LEGISLATIVE FINDINGS. The conduct in this state of

1 one or more games [~~the 2007 Pan American Games or the 2012 Olympic~~
2 ~~Games~~] will:

3 (1) provide invaluable public visibility throughout
4 the nation or world for this state and the communities where the
5 games are held;

6 (2) encourage and provide major economic benefits to
7 the communities where the games are held and to the entire state;
8 and

9 (3) provide opportunities for the creation of jobs by
10 local and Texas businesses that pay a living wage.

11 SECTION 5.03. Subsections (a), (b), (d), (f), (i), and (l),
12 Section 4, Chapter 1507, Acts of the 76th Legislature, Regular
13 Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), are
14 amended to read as follows:

15 (a) In this section:

16 (1) "Games" means the [~~2007~~] Pan American Games.

17 (2) "Site selection organization" means the United
18 States Olympic Committee or the Pan American Sports Organization.

19 (3) "Endorsing municipality" means a municipality
20 that has a population of 850,000 or more and that authorizes a bid
21 by a local organizing committee for selection of the municipality
22 as the site of the games.

23 (b) If a site selection organization selects a site for the
24 games in this state pursuant to an application by a local organizing
25 committee acting on behalf of an endorsing municipality, after the
26 first occurrence of a measurable economic impact in this state as a
27 result of the preparation for the games, as determined by the

1 comptroller, but in no event later than one year before the
2 scheduled opening event of the games, the comptroller shall
3 determine for each subsequent calendar quarter, in accordance with
4 procedures developed by the comptroller:

5 (1) the incremental increase in the receipts to the
6 state from the taxes imposed under Chapters 151, 152, 156, and 183,
7 Tax Code, and under Title 5, Alcoholic Beverage Code, within the
8 market areas designated under Subsection (c) of this section, that
9 is directly attributable, as determined by the comptroller, to the
10 preparation for and presentation of the games and related events;

11 (2) the incremental increase in the receipts collected
12 by the state on behalf of the endorsing municipality from the sales
13 and use tax imposed by the endorsing municipality under Section
14 321.101(a), Tax Code, that is directly attributable, as determined
15 by the comptroller, to the preparation for and presentation of the
16 games and related events; and

17 (3) the incremental increase in the receipts collected
18 by the endorsing municipality from the municipality's hotel
19 occupancy tax imposed under Chapter 351, Tax Code, that is directly
20 attributable, as determined by the comptroller, to the preparation
21 for and presentation of the games and related events.

22 (d) The [~~Subject to Section 6 of this Act, the~~] comptroller
23 shall retain, for the purpose of guaranteeing the joint obligations
24 of the state and the endorsing municipality under a games support
25 contract and this Act, the amount of municipal sales and use tax
26 revenue determined under Subsection (b)(2) of this section from the
27 amounts otherwise required to be sent to the municipality under

1 Section 321.502, Tax Code, beginning with the first distribution of
2 that tax revenue that occurs after the date the comptroller makes
3 the determination of the amount of municipal sales and use tax
4 revenue under Subsection (b)(2). The comptroller shall discontinue
5 retaining municipal sales and use tax revenue under this subsection
6 on the earlier of:

7 (1) the end of the third calendar month following the
8 month in which the closing event of the games occurs; or

9 (2) the date the amount of municipal sales and use tax
10 revenue and municipal hotel occupancy tax revenue in the Pan
11 American Games trust fund equals 14 percent of the maximum amount of
12 state and municipal tax revenue that may be deposited in the trust
13 fund under Subsection (m) of this section.

14 (f) Subject to [~~Section 6 of this Act and~~] Subsection (m) of
15 this section, the comptroller shall deposit into a trust fund
16 designated as the Pan American Games trust fund the amount of
17 municipal sales and use tax revenue retained under Subsection (d)
18 of this section and, at the same time, a portion of the state tax
19 revenue determined under Subsection (b)(1) of this section in an
20 amount equal to 6.25 times the amount of that municipal sales and
21 use tax revenue. Subject to [~~Section 6 of this Act and~~] Subsection
22 (m) of this section, the endorsing municipality shall deposit into
23 the trust fund the amount of the endorsing municipality's hotel
24 occupancy tax revenue determined under Subsection (b)(3) of this
25 section. The endorsing municipality shall deposit that hotel
26 occupancy tax revenue into the trust fund at least quarterly. When
27 the endorsing municipality makes a deposit of its hotel occupancy

1 tax revenue, the comptroller shall deposit at the same time a
2 portion of the state tax revenue determined under Subsection (b)(1)
3 of this section in an amount equal to 6.25 times the amount of that
4 municipal hotel occupancy tax revenue. The Pan American Games
5 trust fund is established outside the treasury but is held in trust
6 by the comptroller for the administration of this Act. Money in the
7 trust fund may be spent by the department without appropriation
8 only as provided by this Act. The comptroller shall discontinue
9 depositing into the trust fund any state tax revenue determined
10 under Subsection (b)(1) of this section on the earlier of:

11 (1) the end of the third calendar month following the
12 month in which the closing event of the games occurs; or

13 (2) the date on which the amount of state revenue in
14 the Pan American Games trust fund equals 86 percent of the maximum
15 amount of state and municipal tax revenue that may be deposited in
16 the trust fund under Subsection (m) of this section.

17 (i) The comptroller shall provide an estimate not later than
18 September 1 of the year that is eight years before the year in which
19 the games would be held in this state [~~1999~~] of the total amount
20 of state and municipal tax revenue that would be deposited in the
21 Pan American Games trust fund before January 1 of the year following
22 the year in which the games would be held, [~~2008~~] if the games were
23 to be held in this state at a site selected pursuant to an
24 application by a local organizing committee. The comptroller shall
25 provide the estimate on request to a local organizing committee. A
26 local organizing committee may submit the comptroller's estimate to
27 a site selection organization.

1 (1) On January 1 of the second year following the year in
2 which the games are held in this state, [2009,] the comptroller
3 shall transfer to the general revenue fund any money remaining in
4 the Pan American Games trust fund, not to exceed the amount of state
5 revenue remaining in the trust fund, plus any interest earned on
6 that state revenue. The comptroller shall remit to the endorsing
7 municipality any money remaining in the trust fund after the
8 required amount is transferred to the general revenue fund.

9 SECTION 5.04. Subsections (a) through (g) and (i) and (m),
10 Section 5, Chapter 1507, Acts of the 76th Legislature, Regular
11 Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), are
12 amended to read as follows:

13 (a) In this section:

14 (1) "Games" means the [2012] Olympic Games.

15 (2) "Site selection organization" means the United
16 States Olympic Committee or the International Olympic Committee.

17 (3) "Endorsing county" means a county in which there
18 is located all or part of a municipality that has a population of
19 850,000 or more, or a county adjacent to such a county.

20 (4) "Endorsing municipality" has the meaning assigned
21 by Section 4 of this Act.

22 (b) If a site selection organization selects a site for the
23 games in this state pursuant to an application by a local organizing
24 committee, after the first occurrence of a measurable economic
25 impact in this state as a result of the preparation for the games,
26 as determined by the comptroller, but in no event later than one
27 year before the scheduled opening event of the games, the

1 comptroller shall determine for each subsequent calendar quarter,
2 in accordance with procedures developed by the comptroller:

3 (1) the incremental increase in the receipts to the
4 state from the taxes imposed under Chapters [~~Chapter~~] 151, 152,
5 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code,
6 within the market areas designated under Subsection (c) of this
7 section, that is directly attributable, as determined by the
8 comptroller, to the preparation for and presentation of the games
9 and related events; [~~and~~]

10 (2) the incremental increase in the receipts collected
11 by the state on behalf of each [~~the~~] endorsing municipality from the
12 sales and use tax imposed by the endorsing municipality under
13 Section 321.101(a), Tax Code, and the mixed beverage tax revenue to
14 be received by the endorsing municipality under Section 183.051(b),
15 Tax Code, that is directly attributable, as determined by the
16 comptroller, to the preparation for and presentation of the games
17 and related events;

18 (3) the incremental increase in the receipts collected
19 by the state on behalf of each endorsing county from the sales and
20 use tax imposed by the county under Section 323.101(a), Tax Code,
21 and the mixed beverage tax revenue to be received by the endorsing
22 county under Section 183.051(b), Tax Code, that is directly
23 attributable, as determined by the comptroller, to the preparation
24 for and presentation of the games and related events;

25 (4) the incremental increase in the receipts collected
26 by each endorsing municipality from the hotel occupancy tax imposed
27 under Chapter 351, Tax Code, that is directly attributable, as

1 determined by the comptroller, to the preparation for and
2 presentation of the games and related events; and

3 (5) the incremental increase in the receipts collected
4 by each endorsing county from the hotel occupancy tax imposed under
5 Chapter 352, Tax Code, that is directly attributable, as determined
6 by the comptroller, to the preparation for and presentation of the
7 games and related events.

8 (c) For the purposes of Subsection (b)(1) of this section,
9 the comptroller shall designate as a market area for the games each
10 area in which the comptroller determines there is a reasonable
11 likelihood of measurable economic impact directly attributable to
12 the preparation for and presentation of the games and related
13 events, including areas likely to provide venues, accommodations,
14 and services in connection with the games based on the proposal
15 provided by the local organizing committee under Section 7 of this
16 Act. The comptroller shall determine the geographic boundaries of
17 each market area. Each [The] endorsing municipality or endorsing
18 county that has been selected as the site for the games must be
19 included in a market area for the games.

20 (d) Subject to Section 6 of this Act, the comptroller shall
21 retain, for the purpose of guaranteeing the joint obligations of
22 the state and an [the] endorsing municipality or endorsing county
23 under a games support contract and this Act, the amount of
24 [municipal] sales and use tax revenue and mixed beverage tax
25 revenue determined under Subsection (b)(2) or (b)(3) of this
26 section from the amounts otherwise required to be sent to the
27 municipality under Section 183.051(b) or 321.502, Tax Code, or to

1 the county under Section 183.051(b) or 323.502, Tax Code, beginning
2 with the first distribution of that tax revenue that occurs after
3 the date the comptroller makes the determination of the amount of
4 ~~[municipal]~~ sales and use tax revenue and mixed beverage tax
5 revenue under Subsection (b)(2) or (b)(3) of this section. The
6 comptroller shall discontinue retaining ~~[municipal]~~ sales and use
7 tax revenue and mixed beverage tax revenue under this subsection on
8 the earlier of:

9 (1) the end of the third calendar month following the
10 month in which the closing event of the games occurs; or

11 (2) the date the amount of local ~~[municipal]~~ sales and
12 use tax revenue and mixed beverage tax revenue in the Olympic Games
13 trust fund equals 14 percent of the maximum amount of state and
14 local ~~[municipal]~~ tax revenue that may be deposited in the trust
15 fund under Subsection (m) of this section.

16 (e) In addition to ~~[municipal]~~ sales and use tax revenue and
17 mixed beverage tax revenue retained under Subsection (d) of this
18 section and hotel occupancy tax revenue retained under Subsection
19 (f) of this section, an endorsing municipality or endorsing county
20 may guarantee its obligations under a games support contract and
21 this Act by pledging surcharges from user fees, including parking
22 or ticket fees, charged in connection with presentation of the
23 games.

24 (f) Subject to ~~[Section 6 of this Act and]~~ Subsection (m) of
25 this section, each endorsing municipality or endorsing county shall
26 remit to the comptroller and the comptroller shall deposit into a
27 trust fund designated as the Olympic Games trust fund, on a

1 quarterly basis, the amount of the municipality's or county's hotel
2 occupancy tax revenue determined under Subsection (b)(4) or (b)(5)
3 of this section, as applicable. Subject to Section 6 of this Act
4 and Subsection (m) of this section, the comptroller shall deposit
5 into the trust fund the amount of [~~municipal~~] sales and use tax
6 revenue and mixed beverage tax revenue retained under Subsection
7 (d) of this section for the same calendar quarter and, at the same
8 time, [~~a portion of~~] the state tax revenue determined under
9 Subsection (b)(1) of this section for the quarter [~~in an amount~~
10 ~~equal to 6.25 times the amount of that municipal sales and use tax~~
11 ~~revenue~~]. The Olympic Games trust fund is established outside the
12 treasury but is held in trust by the comptroller for the
13 administration of this Act. Money in the trust fund may be spent by
14 the department without appropriation only as provided by this Act.
15 The comptroller shall discontinue deposit of the amount of state
16 tax revenue determined under Subsection (b)(1) of this section on
17 the earlier of:

18 (1) the end of the third calendar month following the
19 month in which the closing event of the games occurs; or

20 (2) the date the amount of state revenue in the Olympic
21 Games trust fund equals 86 percent of the maximum amount of state,
22 [~~and~~] municipal, and county tax revenue that may be deposited in the
23 trust fund under Subsection (m) of this section.

24 (g) The department may use the funds in the Olympic Games
25 trust fund only to fulfill joint obligations of the state and each
26 [~~the~~] endorsing municipality or endorsing county to a site
27 selection organization under a games support contract or any other

1 agreement providing assurances from the department or the
2 [~~endorsing~~] municipality or county to a site selection
3 organization.

4 (i) The comptroller shall provide an estimate before August
5 31 of the year that is 12 years before the year in which the games
6 would be held in this state, [2000,] or as soon as practical after
7 that date, of the total amount of state, [~~and~~] municipal, and county
8 tax revenue that would be deposited in the Olympic Games trust fund
9 if the games were to be held in this state at a site selected
10 pursuant to an application by a local organizing committee. The
11 comptroller shall provide the estimate on request to a local
12 organizing committee. A local organizing committee may submit the
13 comptroller's estimate to a site selection organization.

14 (j) The department may not make a disbursement from the
15 Olympic Games trust fund unless the comptroller certifies that the
16 disbursement is for a purpose for which the state and each [~~the~~]
17 endorsing municipality or endorsing county are jointly obligated
18 under a games support contract or other agreement described by
19 Subsection (g) of this section. A disbursement may not be made from
20 the trust fund that the department determines would be used for the
21 purpose of soliciting the relocation of a professional sports
22 franchise located in this state.

23 (k) If the comptroller certifies under Subsection (j) of
24 this section that a disbursement may be made from the Olympic Games
25 trust fund, the obligation shall be satisfied proportionately from
26 the state and municipal or county revenue in the trust fund.

27 (l) Two years after the closing event of the games, the

1 comptroller shall transfer to the general revenue fund any money
2 remaining in the Olympic Games trust fund, not to exceed the amount
3 of state revenue remaining in the trust fund, plus any interest
4 earned on that state revenue. The comptroller shall remit to each
5 ~~[the]~~ endorsing entity in proportion to the amount contributed by
6 the entity ~~[municipality]~~ any money remaining in the trust fund
7 after the required amount is transferred to the general revenue
8 fund.

9 (m) In no event may:

10 (1) the total amount of state, ~~[and]~~ municipal, and
11 county tax revenue deposited in the Olympic Games trust fund exceed
12 \$100 million; or

13 (2) the joint liability of the state and an ~~[the]~~
14 endorsing municipality or county under a joinder agreement and any
15 other games support contracts entered into pursuant to this Act
16 exceed the lesser of:

17 (A) \$100 million; or

18 (B) the total amount of revenue deposited in the
19 Olympic Games trust fund and interest earned on the fund.

20 SECTION 5.05. Chapter 1507, Acts of the 76th Legislature,
21 Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil
22 Statutes), is amended by adding Section 5A to read as follows:

23 Sec. 5A. PAYMENT OF STATE AND MUNICIPAL OR COUNTY
24 OBLIGATIONS; OTHER EVENTS TRUST FUND. (a) In this section:

25 (1) "Endorsing county" means a county that has a
26 population of one million or more and that contains a site selected
27 by a site selection organization for one or more games.

1 (2) "Endorsing municipality" means a municipality
2 that has a population of one million or more and that contains a
3 site selected by a site selection organization for one or more
4 games.

5 (3) "Event support contract" means a joinder
6 undertaking, joinder agreement, or a similar contract executed by
7 an endorsing municipality or endorsing county and a site selection
8 organization.

9 (4) "Game" means a Super Bowl, a National Collegiate
10 Athletic Association Final Four tournament game, the National
11 Basketball Association All-Star Game, the National Hockey League
12 All-Star Game, the Major League Baseball All-Star Game, a National
13 Collegiate Athletic Association Bowl Championship Series game, a
14 World Cup Soccer game, or the World Games. The term includes any
15 events and activities related to or associated with the games.

16 (5) "Site selection organization" means the National
17 Football League, the National Collegiate Athletic Association, the
18 National Basketball Association, the National Hockey League, Major
19 League Baseball, the Federation Internationale de Football
20 Association (FIFA), or the International World Games Association.

21 (b) If a site selection organization selects a site for a
22 game in this state pursuant to an application by a local organizing
23 committee, endorsing municipality, or endorsing county, not later
24 than three months before the date of the game, the comptroller shall
25 determine for the two-week period that ends at the end of the day
26 after the date on which the game will be held, in accordance with
27 procedures developed by the comptroller:

1 (1) the incremental increase in the receipts to the
2 state from taxes imposed under Chapters 151, 152, 156, and 183, Tax
3 Code, and under Title 5, Alcoholic Beverage Code, within the market
4 areas designated under Subsection (c) of this section, that is
5 directly attributable, as determined by the comptroller, to the
6 preparation for and presentation of the game and related events;

7 (2) the incremental increase in the receipts collected
8 by the state on behalf of each endorsing municipality in the market
9 area from the sales and use tax imposed by each endorsing
10 municipality under Section 321.101(a), Tax Code, and the mixed
11 beverage tax revenue to be received by each endorsing municipality
12 under Section 183.051(b), Tax Code, that is directly attributable,
13 as determined by the comptroller, to the preparation for and
14 presentation of the game and related events;

15 (3) the incremental increase in the receipts collected
16 by the state on behalf of each endorsing county in the market area
17 from the sales and use tax imposed by each endorsing county under
18 Section 323.101(a), Tax Code, and the mixed beverage tax revenue to
19 be received by each endorsing county under Section 183.051(b), Tax
20 Code, that is directly attributable, as determined by the
21 comptroller, to the preparation for and presentation of the game
22 and related events;

23 (4) the incremental increase in the receipts collected
24 by each endorsing municipality in the market area from the hotel
25 occupancy tax imposed under Chapter 351, Tax Code, that is directly
26 attributable, as determined by the comptroller, to the preparation
27 for and presentation of the game and related events; and

1 (5) the incremental increase in the receipts collected
2 by each endorsing county in the market area from the hotel occupancy
3 tax imposed under Chapter 352, Tax Code, that is directly
4 attributable, as determined by the comptroller, to the preparation
5 for and presentation of the game and related events.

6 (c) For the purposes of Subsection (b)(1) of this section,
7 the comptroller shall designate as a market area for the game each
8 area in which the comptroller determines there is a reasonable
9 likelihood of measurable economic impact directly attributable to
10 the preparation for and presentation of the game and related
11 events, including areas likely to provide venues, accommodations,
12 and services in connection with the game based on the proposal
13 provided by the local organizing committee to the comptroller. The
14 comptroller shall determine the geographic boundaries of each
15 market area. An endorsing municipality or endorsing county that
16 has been selected as the site for the game must be included in a
17 market area for the game.

18 (d) Each endorsing municipality or endorsing county shall
19 remit to the comptroller and the comptroller shall deposit into a
20 trust fund created by the comptroller and designated as the Other
21 Events trust fund the amount of the municipality's or county's hotel
22 occupancy tax revenue determined under Subsection (b)(4) or (b)(5)
23 of this section, less any amount of the revenue that the
24 municipality or county determines is necessary to meet the
25 obligations of the municipality or county. The comptroller shall
26 retain the amount of sales and use tax revenue and mixed beverage
27 tax revenue determined under Subsection (b)(2) or (b)(3) of this

1 section from the amounts otherwise required to be sent to the
2 municipality under Sections 321.502 and 183.051(b), Tax Code, or to
3 the county under Sections 323.502 and 183.051(b), Tax Code, and
4 deposit into the trust fund the tax revenues, less any amount of the
5 revenue that the municipality or county determines is necessary to
6 meet the obligations of the municipality or county. The
7 comptroller shall begin retaining and depositing the local tax
8 revenues with the first distribution of that tax revenue that
9 occurs after the first day of the two-week period described by
10 Subsection (b) of this section and shall discontinue retaining the
11 local tax revenues under this subsection when the amount of the
12 applicable tax revenue determined under Subsection (b)(2) or (b)(3)
13 of this section has been retained. The Other Events trust fund is
14 established outside the state treasury and is held in trust by the
15 comptroller for administration of this Act. Money in the trust fund
16 may be disbursed by the comptroller without appropriation only as
17 provided by this section.

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

24 (f) The comptroller shall deposit a portion of the state tax
25 revenue determined under Subsection (b)(1) of this section in an
26 amount equal to 6.25 times the amount of the local sales and use tax
27 revenue and mixed beverage tax revenue retained and the hotel

1 occupancy tax revenue remitted by an endorsing municipality or
2 endorsing county under Subsection (d) of this section.

3 (g) To meet its obligations under a game support contract or
4 event support contract to improve, construct, renovate, or acquire
5 facilities or to acquire equipment, an endorsing municipality by
6 ordinance or an endorsing county by order may authorize the
7 issuance of notes. An endorsing municipality or endorsing county
8 may provide that the notes be paid from and secured by amounts on
9 deposit or amounts to be deposited into the Other Events trust fund
10 or surcharges from user fees, including parking or ticket fees,
11 charged in connection with the game. Any note issued must mature
12 not later than seven years from its date of issuance.

13 (h) The funds in the Other Events trust fund may be used to
14 pay the principal of and interest on notes issued by an endorsing
15 municipality or endorsing county under Subsection (g) of this
16 section and to fulfill obligations of the state or an endorsing
17 municipality or endorsing county to a site selection organization
18 under a game support contract or event support contract, which
19 obligations may include the payment of costs relating to the
20 preparations necessary or desirable for the conduct of the game and
21 the payment of costs of conducting the game, including improvements
22 or renovations to existing facilities or other facilities and costs
23 of acquisition or construction of new facilities or other
24 facilities.

25 (i) A local organizing committee, endorsing municipality,
26 or endorsing county shall provide information required by the
27 comptroller to enable the comptroller to fulfill the comptroller's

1 duties under this section, including annual audited statements of
2 any financial records required by a site selection organization and
3 data obtained by the local organizing committee, an endorsing
4 municipality, or an endorsing county relating to attendance at the
5 game and to the economic impact of the game. A local organizing
6 committee, endorsing municipality, or endorsing county must
7 provide an annual audited financial statement required by the
8 comptroller, if any, not later than the end of the fourth month
9 after the date the period covered by the financial statement ends.

10 (j) The comptroller shall provide an estimate not later than
11 three months before the date of a game of the total amount of tax
12 revenue that would be deposited in the Other Events trust fund under
13 this section in connection with that game, if the game were to be
14 held in this state at a site selected pursuant to an application by
15 a local organizing committee, endorsing municipality, or endorsing
16 county. The comptroller shall provide the estimate on request to a
17 local organizing committee, endorsing municipality, or endorsing
18 county. A local organizing committee, endorsing municipality, or
19 endorsing county may submit the comptroller's estimate to a site
20 selection organization.

21 (k) The comptroller may make a disbursement from the Other
22 Events trust fund on the prior approval of each contributing
23 endorsing municipality or endorsing county for a purpose for which
24 an endorsing municipality or endorsing county or the state is
25 obligated under a game support contract or event support contract.
26 A disbursement may not be made from the trust fund that the
27 comptroller determines would be used for the purpose of soliciting

1 the relocation of a professional sports franchise located in this
2 state.

3 (l) If a disbursement is made from the Other Events trust
4 fund under Subsection (k), the obligation shall be satisfied
5 proportionately from the state and local revenue in the trust fund.

6 (m) On payment of all state, municipal, or county
7 obligations under a game support contract or event support contract
8 related to the location of any particular game in the state, the
9 comptroller shall remit to each endorsing entity, in proportion to
10 the amount contributed by the entity, any money remaining in the
11 trust fund.

12 (n) This subsection applies only to a bid for or hosting of
13 the 2004 Super Bowl. Notwithstanding any provision in this section
14 to the contrary, the comptroller may not retain and the endorsing
15 municipality or endorsing county may not remit to the comptroller,
16 as applicable, the local tax revenues described in Subsection
17 (b)(2), (b)(3), (b)(4), or (b)(5) of this section. For purposes of
18 Subsection (f) of this section, the comptroller shall deposit a
19 portion of the state tax revenue determined under Subsection (b)(1)
20 of this section in an amount equal to 6.25 times the amount of the
21 local sales and use tax revenue and mixed beverage tax revenue that
22 the comptroller determines pursuant to Subsection (b) of this
23 section represents the incremental increase in receipts to an
24 endorsing municipality or endorsing county.

25 (o) This section may not be construed as creating or
26 requiring a state guarantee of obligations imposed on the state or
27 an endorsing municipality or endorsing county under a game support

1 contract or other agreement relating to hosting one or more games in
2 this state.

3 (p) The comptroller may not undertake any of the
4 responsibilities or duties set forth in this section unless a
5 request is submitted by the municipality and the county in which the
6 game will be located. The request must be accompanied by
7 documentation from a site selection organization selecting the site
8 for the game.

9 (q) This section expires January 1, 2007.

10 SECTION 5.06. Section 6, Chapter 1507, Acts of the 76th
11 Legislature, Regular Session, 1999 (Article 5190.14, Vernon's
12 Texas Civil Statutes), is amended to read as follows:

13 Sec. 6. MUNICIPAL OR COUNTY ELECTION. (a) Except as
14 provided by Subsections [~~Subsection~~] (b) and (d) of this section,
15 an endorsing municipality or endorsing county must hold an election
16 in the municipality or county to determine whether the municipality
17 or county may contribute a portion of its sales and use taxes [~~and~~
18 ~~hotel occupancy taxes to the Pan American Games trust fund under~~
19 ~~Section 4 of this Act or a portion of its sales and use taxes]~~ to the
20 Olympic Games trust fund under Section 5 of this Act [~~, as applicable~~
21 ~~to the games for which the municipality has authorized a bid on its~~
22 ~~behalf]. The election must be held on a uniform election date [~~that~~
23 ~~occurs after the effective date of this Act and]~~ before the date a
24 site selection organization requires the endorsing municipality or
25 endorsing county and the state to enter into a joinder undertaking
26 relating to the applicable games.~~

27 (b) [~~An endorsing municipality authorizing a bid on its~~

1 ~~behalf for the 2007 Pan American Games is not required to hold an~~
 2 ~~election under this section if there is not a sufficient number of~~
 3 ~~days between the effective date of this Act and a uniform election~~
 4 ~~date that occurs before the date a site selection organization~~
 5 ~~requires that the endorsing municipality and the state enter into a~~
 6 ~~joinder undertaking to allow the municipality to submit the~~
 7 ~~proposed election to the United States attorney general for~~
 8 ~~preclearance under Section 5 of the Voting Rights Act of 1965, as~~
 9 ~~amended (42 U.S.C. Section 1973c), at least 120 days before the~~
 10 ~~election.~~

11 ~~[(c)]~~ If an endorsing municipality or endorsing county is
 12 required to hold an election under this section and the
 13 contribution of a portion of the municipality's or county's sales
 14 and use taxes to the [~~Pan American Games trust fund or~~] Olympic
 15 Games trust fund under Section 5 of this Act [~~, as applicable to the~~
 16 ~~games for which the endorsing municipality authorized a site~~
 17 ~~selection bid on its behalf,~~] is not approved by a majority of the
 18 voters voting in the election:

19 (1) the comptroller may not establish the [~~Pan~~
 20 ~~American Games trust fund under Section 4 of this Act or the~~
 21 Olympic Games trust fund under Section 5 of this Act [~~, as~~
 22 ~~applicable~~], may not retain the municipality's or county's
 23 [~~municipal sales and use~~] tax revenue under Section [~~4(d) or~~] 5(d)
 24 of this Act [~~, as applicable,~~] from amounts otherwise required to be
 25 sent to that municipality or county [~~under Section 321.502, Tax~~
 26 ~~Code~~], and may not deposit any state tax revenue into the trust
 27 fund;

1 (2) the comptroller is not required to determine the
2 incremental increase in state, county, or [~~and~~] municipal tax
3 revenue under Section [~~4(b) or~~] 5(b) of this Act[~~, as applicable~~];
4 and

5 (3) the department may not enter into a games support
6 contract relating to the games for which the municipality or county
7 has authorized a bid on its behalf.

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

13 SECTION 5.07. Subsections (a), (b), (e), (f), (g), (i), and
14 (j), Section 7, Chapter 1507, Acts of the 76th Legislature, Regular
15 Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), are
16 amended to read as follows:

17 (a) The department shall review requests from a local
18 organizing committee, endorsing municipality, or endorsing county
19 that the department, on behalf of the state, enter into a games
20 support contract that is required by a site selection organization
21 in connection with the committee's, municipality's, or county's bid
22 to host any of the games. This section does not affect or apply to
23 an event support contract under Section 5A of this Act to which the
24 department is not a party.

25 (b) A request made under Subsection (a) of this section must
26 be accompanied by:

27 (1) a general description and summary of the games for

1 which a site selection is sought by the local organizing committee,
2 endorsing municipality, or endorsing county;

3 (2) a preliminary and general description of the
4 proposal the local organizing committee, endorsing municipality,
5 or endorsing county intends to submit to a site selection
6 organization;

7 (3) the estimated cost of preparing and submitting the
8 intended proposal;

9 (4) the local organizing committee's, endorsing
10 municipality's, or endorsing county's intended method of obtaining
11 the funds needed for the purpose of preparing the proposal;

12 (5) a description by type and approximate amount of
13 the site selection application costs that the local organizing
14 committee, endorsing municipality, or endorsing county intends to
15 pay; and

16 (6) any other information reasonably requested by the
17 department to assist it in reviewing the request.

18 (e) The department may agree in a joinder agreement that the
19 state will:

20 (1) provide or cause to be provided all of the
21 governmental funding, facilities, and other resources specified in
22 the local organizing committee's, endorsing municipality's, or
23 endorsing county's bid to host the games;

24 (2) be bound by the terms of, cause the local
25 organizing committee, endorsing municipality, or endorsing county
26 to perform, and guarantee performance of the local organizing
27 committee's, endorsing municipality's, or endorsing county's

1 obligations under contracts relating to selecting a site in this
2 state for the games; and

3 (3) be jointly and severally liable with the local
4 organizing committee, endorsing municipality, or endorsing county
5 for:

6 (A) obligations of the local organizing
7 committee, endorsing municipality, or endorsing county to a site
8 selection organization, including obligations indemnifying the
9 site selection organization against claims of and liabilities to
10 third parties arising out of or relating to the games; and

11 (B) any financial deficit relating to the games.

12 (f) The department may agree to execute a joinder
13 undertaking, a joinder agreement, or other games support contract
14 only if:

15 (1) the department determines that:

16 (A) the state's assurances and obligations under
17 the undertaking, agreement, or contract are reasonable; and

18 (B) any financial commitments of the state will
19 be satisfied exclusively by recourse to the Pan American Games
20 trust fund or the Olympic Games trust fund, as applicable; and

21 (2) the endorsing municipality or endorsing county has
22 executed an agreement with a site selection organization that
23 contains substantially similar terms.

24 (g) Before executing a games support contract, the
25 department must execute an agreement with the [~~applicable~~] local
26 organizing committee, endorsing municipality, or endorsing county
27 requiring that if a site selection organization selects a site for

1 the games in this state pursuant to an application by the local
2 organizing committee, endorsing municipality, or endorsing county,
3 the local organizing committee, endorsing municipality, or
4 endorsing county will repay the state any funds expended by the
5 department under this Act from any surplus of the local organizing
6 committee's, endorsing municipality's, or endorsing county's funds
7 remaining after the presentation of the games and after the payment
8 of the expenses and obligations incurred by the local organizing
9 committee, endorsing municipality, or endorsing county.

10 (i) The department may require a local organizing
11 committee, endorsing municipality, or endorsing county to list the
12 state as an additional insured on any policy of insurance purchased
13 by the local organizing committee, endorsing municipality, or
14 endorsing county and required by a site selection organization to
15 be in effect in connection with the games.

16 (j) The Texas Department of Transportation, the Department
17 of Public Safety of the State of Texas, and the Texas Department of
18 Housing and Community Affairs may:

19 (1) assist a local organizing committee, endorsing
20 municipality, or endorsing county in developing applications and
21 planning for the games; and

22 (2) enter into contracts, agreements, or assurances
23 related to the presentation of the games.

24 SECTION 5.08. Section 26.041, Tax Code, is amended by
25 adding Subsection (j) to read as follows:

26 (j) Any amount derived from the sales and use tax that is
27 retained by the comptroller under Section 4 or 5, Chapter 1507, Acts

1 of the 76th Legislature, Regular Session, 1999 (Article 5190.14,
2 Vernon's Texas Civil Statutes), is not considered to be sales and
3 use tax revenue for purposes of this section.

4 SECTION 5.09. Subsection (k), Section 7, Chapter 1507, Acts
5 of the 76th Legislature, Regular Session, 1999 (Article 5190.14,
6 Vernon's Texas Civil Statutes), is repealed.

7 ARTICLE 6. REPEALER

8 SECTION 6.01. The following provisions are repealed:

- 9 (1) Chapter 146, Education Code;
- 10 (2) Subchapter P, Chapter 403, Government Code;
- 11 (3) Sections 481.001(1), (3), and (4), 481.004,
12 481.0041, 481.0043, 481.0044, 481.005(b), 481.006, 481.0068,
13 481.007, 481.010(c), 481.023(b) and (c), 481.0231, 481.028,
14 481.041, 481.045, 481.059, 481.071, 481.073(a) and (b), 481.077,
15 481.084, 481.087, 481.1665, 481.168, 481.171, 481.194(b),
16 481.197(a), 481.201, and 481.403, Government Code;
- 17 (4) Subchapters G and CC, Chapter 481, Government
18 Code;
- 19 (5) Chapters 482 and 484, Government Code;
- 20 (6) Sections 2303.003(2) and (4), 2303.102-2303.108,
21 2303.110-2303.112, 2303.202, 2303.203, 2303.205(b), 2303.402(b),
22 2303.508, and 2303.512, Government Code;
- 23 (7) Subchapter E, Chapter 2303, Government Code;
- 24 (8) Section 2310.001(3), Government Code;
- 25 (9) Section 386.031(d), Local Government Code;
- 26 (10) Sections 151.431(c) and 171.501(c), Tax Code; and
- 27 (11) Section 39, Development Corporation Act of 1979

1 (Article 5190.6, Vernon's Texas Civil Statutes).

2 ARTICLE 7. EFFECTIVE DATE

3 SECTION 7.01. This Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 275 passed the Senate on April 24, 2003, by a viva-voce vote; and that the Senate concurred in House amendments on May 29, 2003, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 275 passed the House, with amendments, on May 16, 2003, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor