

By: Solomons, Chisum, Gallego, Dunnam,
Keffer of Eastland

H.B. No. 1233

Substitute the following for H.B. No. 1233:

By: Keffer of Eastland

C.S.H.B. No. 1233

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the abolition of the Texas Department of Economic
3 Development and the transfer of certain of its functions and the
4 functions of the Texas Aerospace Commission to the Texas Economic
5 Development and Tourism Office; to the establishment, operation,
6 and funding of the Texas Economic Development Bank; and to the
7 administration and operation of certain economic development
8 programs.

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

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

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

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

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

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

20 (6) "Industry cluster" means a concentration of
21 businesses and industries in a geographic region that are
22 interconnected by the markets they serve, the products they
23 produce, their suppliers, the trade associations to which their
24 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. Sections 481.005(a), (c), and (d), Government
19 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. Section 481.0065(a), Government Code, is
12 amended to read as follows:

13 (a) The office [~~department~~] shall:

14 (1) establish and maintain an Office of Defense
15 Affairs; and

16 (2) appoint a director to manage the Office of Defense
17 Affairs.

18 SECTION 1.10. Subchapter A, Chapter 481, Government Code,
19 is amended by adding Section 481.0066 to read as follows:

20 Sec. 481.0066. AEROSPACE AND AVIATION OFFICE. (a) The
21 office shall establish and maintain an aerospace and aviation
22 office.

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

26 (c) The aerospace and aviation office shall encourage
27 economic development in this state by fostering the growth and

1 development of aerospace and aviation industries in Texas.

2 (d) The aerospace and aviation office shall:

3 (1) analyze space-related and aviation-related
4 research currently conducted in this state and may conduct
5 activities designed to further that research;

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

8 (3) develop short-term and long-term business
9 strategies to promote the retention, development, and expansion of
10 aerospace and aviation industry facilities in the state;

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

13 (5) act as a liaison with other state and federal
14 entities with related economic, educational, and defense
15 responsibilities to support the marketing of the state's aerospace
16 and aviation capabilities; and

17 (6) provide technical support and expertise to the
18 state and to local spaceport authorities regarding aerospace and
19 aviation business matters.

20 SECTION 1.11. Subchapter A, Chapter 481, Government Code,
21 is amended by adding Section 481.0067 to read as follows:

22 Sec. 481.0067. SMALL BUSINESS ADVOCATE. (a) The executive
23 director shall designate an individual as the small business
24 advocate.

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

1 (c) The small business advocate shall:

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

4 (2) assist small and historically underutilized
5 businesses by identifying:

6 (A) conflicting state policy goals and state
7 agency rules that may inhibit small and historically underutilized
8 business development;

9 (B) financial barriers for those businesses; and

10 (C) sources of financial assistance for those
11 businesses;

12 (3) provide assistance to small and historically
13 underutilized businesses in complying with federal, state, and
14 local laws; and

15 (4) perform research, studies, and analyses of matters
16 affecting the interests of small and historically underutilized
17 businesses.

18 SECTION 1.12. Section 481.008, Government Code, is amended
19 to read as follows:

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

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

23 or

24 (2) a private auditing firm.

25 (b) The state auditor shall inform the executive director
26 [~~presiding officer of the governing board~~] when a financial audit
27 of the office [~~department~~] is not included in the audit plan for the

1 state for a fiscal year. The executive director [~~governing board~~]
2 shall ensure that the office [~~department~~] is audited under
3 Subsection (a)(2) during those fiscal years.

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

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

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

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

26 (f) The executive director or the executive director's
27 designee shall prepare and maintain a written policy statement to

1 assure implementation of a program of equal employment opportunity
2 under which all personnel transactions are made without regard to
3 race, color, disability, sex, religion, age, or national origin.
4 The policy statement must include:

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

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

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

15 (4) reasonable methods to appropriately address those
16 areas of significant underuse.

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

21 SECTION 1.14. Section 481.011, Government Code, is amended
22 to read as follows:

23 Sec. 481.011. FISCAL REPORT. The executive director shall
24 file annually with the governor and the presiding officer of each
25 house of the legislature a complete and detailed written report
26 accounting for all funds received and disbursed by the office
27 [~~department~~] during the preceding fiscal year. The annual report

1 must be in the form and reported in the time provided by the General
2 Appropriations Act.

3 SECTION 1.15. Section 481.012, Government Code, is amended
4 to read as follows:

5 Sec. 481.012. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

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

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

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

1 investigate the complaint.

2 (c) If a written complaint is filed with the office
3 [~~department~~] that the office [~~department~~] has authority to resolve,
4 the office [~~department~~], at least quarterly and until final
5 disposition of the complaint, shall notify the parties to the
6 complaint of the status of the complaint unless the notice would
7 jeopardize an undercover investigation.

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

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

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

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

22 SECTION 1.17. Section 481.021, Government Code, is amended
23 to read as follows:

24 Sec. 481.021. GENERAL POWERS OF OFFICE [~~DEPARTMENT~~]. (a)
25 The office [~~department~~] may:

26 (1) adopt and enforce rules necessary to carry out
27 this chapter;

- 1 (2) adopt and use an official seal;
- 2 (3) accept gifts, grants, or loans from and contract
3 with any entity;
- 4 (4) [~~sue and be sued,~~
- 5 [~~(5)~~] acquire and convey property or an interest in
6 property;
- 7 (5) [~~(6)~~] procure insurance and pay premiums on
8 insurance of any type, in accounts, and from insurers as the office
9 [~~department~~] considers necessary and advisable to accomplish any of
10 the office's [~~department's~~] purposes;
- 11 (6) [~~(7)~~] hold patents, copyrights, trademarks, or
12 other evidence of protection or exclusivity issued under the laws
13 of the United States, any state, or any nation and may enter into
14 license agreements with any third parties for the receipt of fees,
15 royalties, or other monetary or nonmonetary value;
- 16 (7) [~~(8)~~] sell advertisements in any medium; and
- 17 (8) [~~(9)~~] exercise any other power necessary to carry
18 out this chapter.

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

22 (c) The office [~~department~~] shall deposit contributions
23 from private sources in a separate fund kept and held in escrow and
24 in trust by the comptroller for and on behalf of the office
25 [~~department~~] as funds held outside the treasury under Section
26 404.073, and the money contributed shall be used to carry out the
27 purposes of the office [~~department~~] and, to the extent possible,

1 the purposes specified by the donors. The comptroller may invest
2 and reinvest the money, pending its use, in the fund in investments
3 authorized by law for state funds that the comptroller considers
4 appropriate.

5 SECTION 1.18. Section 481.022, Government Code, is amended
6 to read as follows:

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

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

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

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

15 (3) promote and administer business and community
16 economic development programs and services in the state, including
17 business incentive programs;

18 (4) provide to businesses and communities in the state
19 assistance with exporting products and services to international
20 markets;

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

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

1 ~~and data services,~~

2 ~~[(7) aggressively market and promote the business~~
3 ~~climate in the state and the state economic development business~~
4 ~~assistance programs and services through the use of available media~~
5 ~~and resources, including the Internet, and~~

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

8 SECTION 1.19. Section 481.023(a), Government Code, is
9 amended to read as follows:

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

12 (1) Chapter 1433; and

13 (2) the Development Corporation Act of 1979 (Article
14 5190.6, Vernon's Texas Civil Statutes).

15 SECTION 1.20. Sections 481.024(a), (e), and (f), Government
16 Code, are amended to read as follows:

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

1 is subject to the limitations provided for the office [~~department~~]
2 by this chapter in carrying out the public purposes of this chapter.
3 The corporation has the rights and powers of a nonprofit
4 corporation incorporated under the Texas Non-Profit Corporation
5 Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)
6 except to the extent inconsistent with this section. The
7 corporation may contract with the office [~~department~~] and with bond
8 counsel, financial advisors, or underwriters as its board of
9 directors considers necessary.

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

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

1 SECTION 1.21. Section 481.025, Government Code, is amended
2 to read as follows:

3 Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY
4 PROGRAM. The office [~~department~~] is the agency of this state
5 responsible for administering the Empowerment Zone and Enterprise
6 Community grant program in this state. The bank [~~department~~] shall
7 cooperate with appropriate federal and local agencies as necessary
8 to administer the grant program.

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

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

24 SECTION 1.23. Sections 481.027(a)-(e), Government Code,
25 are amended to read as follows:

26 (a) The office [~~department~~] shall maintain and operate
27 offices in foreign countries for the purposes of promoting

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

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

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

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

26 (e) Chapter 2175 applies to the operation and maintenance of
27 the foreign offices. No other provisions of Subtitle D, Title 10,

1 apply to the operation and maintenance of the foreign offices, or to
2 transactions of the office [~~department~~] that are authorized by this
3 section.

4 SECTION 1.24. Section 481.029, Government Code, is amended
5 to read as follows:

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

10 SECTION 1.25. Subchapter B, Chapter 481, Government Code,
11 is amended by adding Sections 481.0295 and 481.0296 to read as
12 follows:

13 Sec. 481.0295. IDENTIFICATION OF INDUSTRY CLUSTERS. (a)
14 The office shall work with industry associations and organizations
15 to identify regional and statewide industry clusters.

16 (b) The activities of the office in identifying industry
17 clusters may include:

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

20 (A) members of an industry cluster;

21 (B) the general economic state of the industry
22 cluster; and

23 (C) issues of common concern in the industry
24 cluster;

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

1 and

2 (3) providing methods for electronic communication
3 and information dissemination among members of the industry
4 clusters.

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

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

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

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

19 (1) conducting focus group discussions, facilitating
20 meetings, and conducting studies to identify:

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

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

27 (3) assisting in the formation of flexible networks

1 between persons interested in the development of the targeted
2 sector by providing:

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

6 (B) funding for potential flexible network
7 participants to organize and implement a flexible network;

8 (4) helping to establish research consortia;

9 (5) facilitating training and education programs
10 conducted jointly by sector members;

11 (6) promoting cooperative market development
12 activities;

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

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

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

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

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

27 (g) The office shall use information gathered in each region

1 for which the office identifies industry clusters to:

2 (1) formulate strategies to promote the economic
3 development of targeted sectors; and

4 (2) designate new targeted sectors.

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

9 (1) the semiconductor industry;

10 (2) information and computer technology;

11 (3) microelectromechanical systems;

12 (4) manufactured energy systems;

13 (5) nanotechnology; and

14 (6) biotechnology.

15 (b) The office shall:

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

18 (2) identify and assess specific economic development
19 opportunities; and

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

26 SECTION 1.26. Section 481.043, Government Code, is amended
27 to read as follows:

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

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

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

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

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

15 SECTION 1.27. Section 481.047, Government Code, is amended
16 to read as follows:

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

23 SECTION 1.28. Section 481.0725, Government Code, is amended
24 to read as follows:

25 Sec. 481.0725. GENERAL POWERS AND DUTIES. The office
26 [~~department~~] shall:

27 (1) [~~focus business recruitment, expansion, and~~

1 ~~retention efforts on industry sectors with the highest potential~~
2 ~~for creating high-wage, high-skill jobs,~~

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

5 (2) ~~(3)~~ develop a comprehensive business
6 recruitment marketing plan;

7 (3) ~~(4)~~ participate in international and domestic
8 trade shows, trade missions, marketing trips, and seminars; and

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

13 SECTION 1.29. Section 481.073(c), Government Code, is
14 amended to read as follows:

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

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

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

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

1 of investments that the executive director [~~board~~] determines.

2 SECTION 1.30. Section 481.075, Government Code, is amended
3 to read as follows:

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

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

19 SECTION 1.31. Section 481.121(2), Government Code, is
20 amended to read as follows:

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

24 SECTION 1.32. Section 481.122, Government Code, is amended
25 to read as follows:

26 Sec. 481.122. CREATION. The business permit office is an
27 office within the Texas Economic Development and Tourism Office

1 [~~department~~].

2 SECTION 1.33. Section 481.123, Government Code, is amended
3 to read as follows:

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

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

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

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

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

17 (5) develop comprehensive application procedures to
18 expedite the permit process;

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

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

24 (8) make recommendations for eliminating,
25 consolidating, simplifying, expediting, or otherwise improving
26 permit procedures affecting business enterprises by requesting
27 that the state auditor, with the advice and support of the permit

1 office, initiate a business permit reengineering review process
2 involving all state agencies;

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

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

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

13 SECTION 1.34. Sections 481.124(a), (b), (c), (d), (f), and
14 (h), Government Code, are amended to read as follows:

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

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

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

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

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

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

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

1 (a) The permit office shall compile a comprehensive list of
2 all state permits required of a person desiring to operate a
3 business enterprise in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 SECTION 1.40. Sections 481.167(a), (d), and (e), Government

1 Code, are amended to read as follows:

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

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

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

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

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

19 (1) as the sole state governmental entity responsible
20 for out-of-state tourism marketing and promotion efforts, promote
21 and advertise within the United States and in foreign countries, by
22 radio, television, newspaper, the Internet, and other means
23 considered appropriate, tourism in this state by non-Texans,
24 including persons from foreign countries, and distribute
25 promotional materials through appropriate distribution 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, natural, agricultural, educational, recreational, and
3 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) enter into a memorandum of understanding
15 ~~[cooperate fully]~~ with the Parks and Wildlife Department, the Texas
16 Department of Transportation, the Texas Historical Commission, and
17 the Texas Commission on the Arts to direct the efforts of those
18 agencies in all matters relating to ~~[promotion of]~~ tourism; and ~~[-]~~

19 (9) ~~[-]~~ promote and encourage the horse racing and
20 greyhound racing industry, if funds are appropriated for the
21 promotion or encouragement.

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

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

26 (A) most effectively meet consumer demands and
27 emerging travel trends, as established by the latest market

1 research; and

2 (B) minimize duplication of efforts and realize
3 cost savings through economies of scale;

4 (2) require each agency to submit to the office for
5 advance approval:

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

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

11 (i) priorities identified by the agency;

12 (ii) the agency's proposed budget for
13 tourism activities; and

14 (iii) measurable goals and objectives of
15 the agency related to the promotion of tourism; and

16 (C) any proposed marketing message, material,
17 logo, slogan, or other communication to be used by the agency in its
18 tourism-related efforts, to assist the office in coordinating
19 tourism-related efforts conducted in this state by the agency and
20 the office and conducted outside of this state by the office;

21 (3) direct the development of an annual strategic
22 marketing plan to increase travel to this state, that:

23 (A) provides the most effective and efficient
24 expenditure of state funds, for in-state marketing activities
25 conducted by the agencies and the office and out-of-state marketing
26 activities conducted by the office; and

27 (B) establishes goals, objectives, and

1 performance measures, including the measurement of the return on
2 the investment made by an agency or the office, for the
3 tourism-related efforts of all state agencies; and

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

6 SECTION 1.42. Section 481.174, Government Code, is amended
7 to read as follows:

8 Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS. (a)
9 The office [~~department~~] may sell advertisements in travel
10 promotions in any medium.

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

14 (1) the cost of advertisements;

15 (2) the type of products or services that may be
16 advertised;

17 (3) the size of advertisements; and

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

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

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

26 (2) "Eligible borrower" means:

27 (A) a person who proposes to begin operating a

1 small or medium-sized business in an enterprise zone, as defined by
2 Section 2303.003, or a historically underutilized business;

3 (B) a nonprofit corporation; or

4 (C) a child-care provider.

5 (4-a) "Medium-sized business" means a corporation,
6 partnership, sole proprietorship, or other legal entity that:

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

9 (B) is formed to make a profit; and

10 (C) employs 100 or more but fewer than 500
11 full-time employees.

12 SECTION 1.44. Sections 481.193(a), (b), (d), (e), (f), (h),
13 and (i), Government Code, are amended to read as follows:

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

16 (1) small businesses in enterprise zones;

17 (2) historically underutilized businesses;

18 (3) medium-sized businesses;

19 (4) child-care services provided by and activities
20 engaged in in this state by nonprofit organizations; and

21 (5) [~~(4)~~] quality, affordable child-care services in
22 this state.

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

25 (d) After reviewing an application and determining that the
26 applicant is an eligible borrower and is creditworthy, the eligible
27 lending institution shall send the application for a linked deposit

1 loan to the bank [~~department~~].

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

5 (f) After reviewing each linked deposit loan application,
6 the executive director [~~of the department~~] shall approve or deny
7 [~~recommend to the comptroller the acceptance or rejection of~~] the
8 application.

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

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

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

20 (3) [~~(2)~~] in the event of a default the comptroller
21 may withdraw the linked deposit at the direction of the bank.

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

25 SECTION 1.45. Section 481.193(g), Government Code, as
26 amended by Chapters 891, 1162, and 1423, Acts of the 75th
27 Legislature, Regular Session, 1997, is reenacted and amended to

1 read as follows:

2 (g) After the executive director's approval [~~comptroller's~~
3 ~~acceptance~~] of the application and after the lending institution
4 originates a loan to an eligible borrower, the bank shall authorize
5 the comptroller to [~~shall~~] place a linked deposit with the
6 applicable [~~eligible~~] lending institution for the period of the
7 loan, subject to Subsections (h) and (i). The bank [~~comptroller~~] is
8 not required to maintain the deposit with the lending institution
9 if the loan is extended, renewed, or renegotiated unless the bank
10 approves [~~comptroller—accepts~~] a new linked deposit loan
11 application under this section for the loan as modified. Subject to
12 the limitation described by Section 481.197, the comptroller shall
13 [~~may~~] place, at the direction of the bank, a time deposit at an
14 interest rate described by Section 481.192 and may modify the
15 interest rate during the period of the loan, notwithstanding any
16 order of the State Depository Board to the contrary.

17 SECTION 1.46. Section 481.194(a), Government Code, is
18 amended to read as follows:

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

24 SECTION 1.47. Section 481.198, Government Code, is amended
25 to read as follows:

26 Sec. 481.198. MARKETING. (a) The bank [~~department~~] shall
27 promote the linked deposit program established by this subchapter

1 to eligible borrowers and financial institutions that make
2 commercial loans and are depositories of state funds.

3 (b) Not later than January 1 of each odd-numbered year, the
4 office [~~department~~] shall prepare and deliver to the governor,
5 lieutenant governor, speaker of the house of representatives, and
6 clerks of the standing committees of the senate and house of
7 representatives with primary jurisdiction over commerce and
8 economic development a report concerning the bank's [~~department's~~]
9 efforts in promoting the linked deposit program during the
10 preceding two years.

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

13 Sec. 481.199. REPORTS; AUDITS. (a) The office shall submit
14 to the comptroller a quarterly report regarding the linked deposit
15 program.

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

18 SECTION 1.49. Section 481.211, Government Code, is amended
19 to read as follows:

20 Sec. 481.211. POWERS AND DUTIES. The office [~~department~~]
21 shall:

22 (1) compile and update demographic and economic
23 information on the state;

24 (2) develop and update information products for local
25 communities on community economic development issues and practices
26 that encourage regional cooperation; and

27 (3) compile and disseminate information on economic

1 and industrial development trends and issues, including NAFTA,
2 emerging industries, and patterns of international trade and
3 investment.

4 SECTION 1.50. Section 481.212, Government Code, is amended
5 to read as follows:

6 Sec. 481.212. COMPILATION AND DISTRIBUTION OF DATA AND
7 RESEARCH. (a) To serve as a one-stop center for business-related
8 information, the office [~~department~~] shall obtain from other state
9 agencies and organizations, including the comptroller and the Texas
10 Workforce Commission, business-related statistics and data.

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

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

17 SECTION 1.51. Section 481.401(9), Government Code, is
18 amended to read as follows:

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

24 SECTION 1.52. Sections 481.402(b) and (c), Government Code,
25 are amended to read as follows:

26 (b) Appropriations for the implementation and
27 administration of this subchapter [~~, investment earnings, fees~~

1 ~~charged under this subchapter,~~] and any other amounts received by
2 the state under this subchapter shall be deposited in the fund.

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

6 SECTION 1.53. Section 481.404, Government Code, is amended
7 to read as follows:

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

12 (1) make, execute, and deliver contracts,
13 conveyances, and other instruments necessary to the exercise of its
14 powers;

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

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

20 (4) impose and collect fees and charges in connection
21 with any transaction and provide for reasonable penalties for
22 delinquent payment of fees or charges.

23 SECTION 1.54. Sections 481.405(a)-(d), Government Code,
24 are amended to read as follows:

25 (a) The bank ~~[department]~~ shall establish a capital access
26 program to assist a participating financial institution in making
27 loans to businesses and nonprofit organizations that face barriers

1 in accessing capital.

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

7 (c) The bank [~~department~~] shall determine the eligibility
8 of a financial institution to participate in the program and may set
9 a limit on the number of eligible financial institutions that may
10 participate in the program.

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

17 SECTION 1.55. Section 481.406(a), Government Code, is
18 amended to read as follows:

19 (a) The executive director [~~policy board~~] shall adopt rules
20 relating to the implementation of the program and any other rules
21 necessary to accomplish the purposes of this subchapter. The rules
22 may:

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

27 (2) authorize a consortium of financial institutions

1 to participate in the program subject to common underwriting
2 guidelines.

3 SECTION 1.56. Sections 481.407(a), (b), and (d), Government
4 Code, are amended to read as follows:

5 (a) Except as otherwise provided by this subchapter, the
6 bank [~~department~~] may not determine the recipient, amount, or
7 interest rate of a capital access loan or the fees or other
8 requirements related to the loan.

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

- 11 (1) construction or purchase of residential housing;
12 (2) simple real estate investments, excluding the
13 development or improvement of commercial real estate occupied by
14 the borrower's business or organization; or

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

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

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

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

26 (a) On approval by the bank [~~department~~] and after entering
27 into a participation agreement with the bank [~~department~~], a

1 participating financial institution making a capital access loan
2 shall establish a reserve account. The reserve account shall be
3 used by the institution only to cover any losses arising from a
4 default of a capital access loan made by the institution under this
5 subchapter or as otherwise provided by this subchapter.

6 (c) For each capital access loan made by a financial
7 institution, the institution shall certify to the bank
8 [~~department~~], within the period prescribed by the bank
9 [~~department~~], that the institution has made a capital access loan,
10 the amount the institution has deposited in the reserve account,
11 including the amount of fees received from the borrower, and, if
12 applicable, that the borrower is financing an enterprise project or
13 is located in or financing a project, activity, or enterprise in an
14 area designated as an enterprise zone under Chapter 2303.

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

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

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

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

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

27 (3) notwithstanding Subdivisions (1) and (2), an

1 amount equal to 200 percent of the total amount deposited under
2 Subsection (b) for each loan if:

3 (A) the borrower is financing an enterprise
4 project or is located in or financing a project, activity, or
5 enterprise in an area designated as an enterprise zone under
6 Chapter 2303; or

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

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

13 SECTION 1.58. Section 481.409, Government Code, is amended
14 to read as follows:

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

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

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

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

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

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

7 SECTION 1.59. Sections 481.410(b)-(d), Government Code,
8 are amended to read as follows:

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

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

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

26 (1) a financial institution is no longer eligible to
27 participate in the program or a participation agreement entered

1 into under this subchapter expires without renewal by the bank
2 [~~department~~] or institution;

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

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

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

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

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

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

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

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

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

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

1 (a) The office [~~department~~] shall submit to the legislature
2 an annual status report on the program's activities.

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

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

8 SECTION 1.63. (a) The Texas Department of Economic
9 Development is abolished and the offices of the members of the
10 governing board of the department serving on the effective date of
11 this Act are abolished.

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

16 SECTION 1.64. On September 1, 2003:

17 (1) a rule, standard, or form adopted by the Texas
18 Department of Economic Development or the department's governing
19 board is a rule, standard, or form of the Texas Economic Development
20 and Tourism Office and remains in effect until changed by the
21 executive director of the office;

22 (2) a reference in law to the Texas Department of
23 Economic Development or its governing board means the Texas
24 Economic Development and Tourism Office;

25 (3) a proceeding involving the Texas Department of
26 Economic Development is transferred without change in status to the
27 Texas Economic Development and Tourism Office, and the Texas

1 Economic Development and Tourism Office assumes, without a change
2 in status, the position of the Texas Department of Economic
3 Development in a proceeding to which the Texas Department of
4 Economic Development is a party;

5 (4) all money, contracts, leases, rights, and
6 obligations of the Texas Department of Economic Development are
7 transferred to the Texas Economic Development and Tourism Office;

8 (5) all property, including records, in the custody of
9 the Texas Department of Economic Development becomes the property
10 of the Texas Economic Development and Tourism Office; and

11 (6) all funds appropriated by the legislature to the
12 Texas Department of Economic Development are transferred to the
13 Texas Economic Development and Tourism Office.

14 SECTION 1.65. (a) The executive director of the Texas
15 Department of Economic Development serving on the effective date of
16 this Act does not automatically become the executive director of
17 the Texas Economic Development and Tourism Office. To become the
18 executive director of the Texas Economic Development and Tourism
19 Office, a person must apply for the position and the person's
20 employment in that capacity must be approved by the governor.

21 (b) An employee of the Texas Department of Economic
22 Development employed on the effective date of this Act does not
23 automatically become an employee of the Texas Economic Development
24 and Tourism Office. To become an employee of the Texas Economic
25 Development and Tourism Office, a person must apply for a position
26 at the Texas Economic Development and Tourism Office and the
27 person's employment in that capacity must be approved by the

1 governor or the executive director of the office.

2 SECTION 1.66. A function or activity performed by the Texas
3 Department of Economic Development is transferred to the Texas
4 Economic Development and Tourism Office as provided by this Act.

5 SECTION 1.67. The Texas Department of Economic Development
6 or the Texas Economic Development and Tourism Office, as
7 applicable, shall establish a transition plan for the transfer
8 described in Section 1.64 of this Act. The plan must include a
9 reasonable timetable for the effective reconstruction of the
10 department's mission, strategies, performance measures, functions,
11 and staff, as they relate to key economic clusters in this state.

12 SECTION 1.68. (a) On September 1, 2003:

13 (1) the functions performed by the Texas Aerospace
14 Commission are transferred to the aerospace and aviation office of
15 the Texas Economic Development and Tourism Office; and

16 (2) the executive director of the Texas Aerospace
17 Commission becomes the director of the aerospace and aviation
18 office of the Texas Economic Development and Tourism Office.

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

23 ARTICLE 2. CREATION OF TEXAS ECONOMIC DEVELOPMENT BANK

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

26 CHAPTER 489. TEXAS ECONOMIC DEVELOPMENT BANK

27 SUBCHAPTER A. GENERAL PROVISIONS

1 Sec. 489.001. DEFINITIONS. In this chapter:

2 (1) "Bank" means the Texas Economic Development Bank
3 established under Section 489.101.

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

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

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

10 [Sections 489.003-489.100 reserved for expansion]

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

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

15 (1) providing globally competitive, cost-effective
16 state incentives to expanding businesses operating in this state
17 and businesses relocating to this state; and

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

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

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

1 (b) The bank may:

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

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

6 (B) incentives to lenders to:

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

9 (ii) make low-interest loans to qualifying
10 businesses; and

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

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

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

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

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

26 (6) provide expanding businesses or businesses
27 relocating to this state with a single source of information

1 concerning financial incentives offered by this state to those
2 businesses.

3 Sec. 489.103. FEES. The bank shall charge fees to the
4 beneficiaries of its services as the bank determines necessary.
5 Amounts collected under this section may be used to support the
6 administration of the bank's programs and implementation of the
7 bank's strategies.

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

12 Sec. 489.105. TEXAS ECONOMIC DEVELOPMENT BANK FUND. (a)
13 The Texas economic development bank fund is a dedicated account in
14 the general revenue fund.

15 (b) The fund consists of:

16 (1) appropriations for the implementation and
17 administration of this chapter;

18 (2) investment earnings under the capital access fund
19 established under Section 481.402;

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

21 (4) interest earned on the investment of money in the
22 fund;

23 (5) fees charged under this chapter;

24 (6) investment earnings from the programs
25 administered by the bank;

26 (7) amounts transferred under Section 2303.504(b), as
27 amended by Article 2, Chapter 1134, Acts of the 77th Legislature,

1 Regular Session, 2001;

2 (8) investment earnings under the Texas product
3 development fund under Section 489.211;

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

6 (10) any other amounts received by the state under
7 this chapter.

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

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

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

16 (1) make, execute, and deliver contracts,
17 conveyances, and other instruments;

18 (2) impose and collect fees and charges in connection
19 with any transaction and provide for reasonable penalties for
20 delinquent payments or performance; and

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

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

1 Sec. 489.108. PROGRAMS, SERVICES, AND FUNDS UNDER BANK'S
2 DIRECTION. Notwithstanding any other law, the bank shall perform
3 the duties and functions of the office with respect to the following
4 programs, services, and funds:

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

8 (2) the capital access program established under
9 Section 481.405;

10 (3) the Texas leverage fund;

11 (4) the linked deposit program established under
12 Section 481.193;

13 (5) the enterprise zone program established under
14 Chapter 2303;

15 (6) the industrial revenue bond program;

16 (7) the defense economic readjustment zone program
17 established under Chapter 2310;

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

20 (9) the renewal community program.

21 [Sections 489.109-489.150 reserved for expansion]

22 SUBCHAPTER C. MISCELLANEOUS PROVISIONS

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

27 Sec. 489.152. GIFTS, GRANTS, AND DONATIONS. The office may

1 accept gifts, grants, and donations from any source for the
2 purposes of this chapter.

3 [Sections 489.153-489.200 reserved for expansion]

4 SUBCHAPTER D. PRODUCT DEVELOPMENT AND SMALL
5 BUSINESS INCUBATORS

6 Sec. 489.201. DEFINITIONS. In this subchapter:

7 (1) "Board" means the Product Development and Small
8 Business Incubator Board.

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

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

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

20 (5) "Product fund" means the Texas product development
21 fund.

22 (6) "Program" means the product development program or
23 the small business incubator program.

24 (7) "Small business fund" means the Texas small
25 business incubator fund.

26 Sec. 489.202. PRODUCT DEVELOPMENT AND SMALL BUSINESS
27 INCUBATOR BOARD. (a) The Product Development and Small Business

1 Incubator Board is created in the office.

2 (b) The bank administers the programs, the product fund, and
3 the small business fund.

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

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

6 (b) In appointing members of the board, the governor shall
7 appoint:

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

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

14 (3) two persons experienced and knowledgeable in
15 structuring and providing financing for technological products or
16 businesses; and

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

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

24 (d) The governor shall appoint the presiding officer of the
25 board.

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

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

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

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

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

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

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

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

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

25 (2) the programs operated by the board;

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

27 (4) the rules of the board, with an emphasis on the

1 rules that relate to disciplinary and investigatory authority;

2 (5) the current budget for the board;

3 (6) the results of the most recent formal audit of the
4 board;

5 (7) the requirements of the:

6 (A) open meetings law, Chapter 551;

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

8 (C) administrative procedure law, Chapter 2001;

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

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

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

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

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

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

26 Sec. 489.208. STAFF. (a) The employees of the office
27 selected by the executive director of the office for that purpose

1 serve as the staff of the board.

2 (b) The executive director of the office shall select and
3 supervise the staff of the board and perform other duties delegated
4 to the office by the board.

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

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

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

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

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

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

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

4 Sec. 489.211. TEXAS PRODUCT DEVELOPMENT FUND. (a) The
5 Texas product development fund is a revolving fund in the state
6 treasury.

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

23 (c) Money in the program account of the product fund, minus
24 the costs of issuance of bonds under this subchapter and necessary
25 costs of administering the product fund, may be used only to provide
26 financing to aid in the development and production, including the
27 commercialization, of new or improved products in this state. The

1 bank shall provide financing from the product 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 product fund
4 and this subchapter, for the purpose of aiding in the development
5 and production of new or improved products in this state.

6 Sec. 489.212. SMALL BUSINESS INCUBATOR FUND. (a) The Texas
7 small business incubator fund is a revolving fund in the state
8 treasury.

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

26 (c) Money in the project account of the small business fund,
27 minus the costs of issuance of bonds under this subchapter and

1 necessary costs of administering the small business fund, may be
2 used only to provide financing to foster and stimulate the
3 development of small businesses in this state. The bank shall
4 provide financing from the small business fund on the terms and
5 conditions that the bank determines to be reasonable, appropriate,
6 and consistent with the purposes and objectives of the small
7 business fund and this subchapter, for the purpose of fostering and
8 stimulating the development of new or existing small businesses in
9 this state.

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

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

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

19 (1) grantees under the small business innovation
20 research program established under 15 U.S.C. Section 638, as
21 amended;

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

24 (3) applicants that have acquired other sources of
25 financing;

26 (4) companies formed in this state and receiving
27 assistance from designated state small business development

1 centers; or

2 (5) applicants who are residents of this state doing
3 business in this state and performing financed activities
4 predominantly in this state.

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

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

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

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

26 (g) A claim of the state for a payment owed to the state
27 under this subchapter by a person who has been provided financing

1 has priority over all other claims against the person.

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

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

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

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

9 (1) information regarding:

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

12 (B) the applicant's present markets and market
13 prospects; and

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

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

19 (3) if applicable, documentation of attempts to obtain
20 private financing.

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

23 (1) the product or business for which financing is
24 requested is economically sound;

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

27 (3) the product or business will create or preserve

1 jobs and otherwise benefit the economy of the state;

2 (4) the applicant has the management resources and
3 other funding to complete the project;

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

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

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

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

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

1 including computer programs and software, and marketing and
2 business operation information, regardless of whether the product
3 to which the information relates is patentable or capable of being
4 registered under copyright or trademark laws or has a potential for
5 being sold, traded, or licensed for a fee. This section does not
6 make confidential information in an account, voucher, or contract
7 relating to the receipt or expenditure of public funds by the bank,
8 board, or the department or its successor under this subchapter.

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

16 Sec. 489.216. PROGRAM COORDINATION. The bank and the
17 office shall coordinate the administration and funding of the
18 programs.

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

25 SECTION 2.02. On September 1, 2003:

26 (1) all functions and activities performed by the
27 comptroller relating to the small business incubator program, the

1 Texas small business incubator fund, and the Texas product
2 development fund immediately before that date are transferred to
3 the Texas Economic Development and Tourism Office or the Texas
4 Economic Development Bank, as provided by this Act;

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

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

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

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

1 the comptroller related to functions and activities performed by
2 the comptroller relating to the small business incubator program,
3 the Texas small business incubator fund, and the Texas product
4 development fund becomes property of the Texas Economic Development
5 and Tourism Office or the Texas Economic Development Bank, as
6 provided by this Act.

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

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

26 (c) The changes in law made by this Act in the
27 qualifications of, and the prohibitions applying to, members of the

1 Product Development and Small Business Incubator Board do not
2 affect the entitlement of a member serving on the board immediately
3 before the effective date of this Act to continue to carry out the
4 functions of the board for the period prescribed by Subsection (b)
5 of this section. The changes in law apply only to a member
6 appointed on or after the effective date of this Act. This Act does
7 not prohibit a person who is a member of the board on the effective
8 date of this Act from being reappointed to the board if the person
9 has the qualifications required for a member under Subchapter D,
10 Chapter 489, Government Code, as added by this Act.

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

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

20 SECTION 3.01. Section 2303.003, Government Code, is amended
21 by amending Subdivisions (1) and (5) and adding Subdivisions (1-a),
22 (1-b), (3-a), (5-a), and (6-a) to read as follows:

23 (1) "Bank" means the Texas Economic Development Bank
24 established under Chapter 489.

25 (1-a) "Block group" has the meaning assigned by the
26 Bureau of the Census of the United States Department of Commerce.

27 (1-b) "Day" means the period between 8 a.m. and 5 p.m.

1 of a day other than a Saturday, Sunday, or state or federal holiday.

2 (3-a) "Governing body of an enterprise zone" means the
3 governing body of a municipality or county in which an enterprise
4 zone is located.

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

10 (5-a) "Office" means the Texas Economic Development
11 and Tourism Office.

12 (6-a) "Qualified business site" means the specific
13 business site of an enterprise project.

14 SECTION 3.02. Sections 2303.051, 2303.052, 2303.053, and
15 2303.054, Government Code, are amended to read as follows:

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

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

27 (b) The bank ~~[department]~~ shall establish criteria and

1 procedures for designating a project or activity of a qualified
2 business [area] as an [~~enterprise zone and for designating an~~]
3 enterprise project.

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

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

9 (b) The bank [department] shall develop data from available
10 information demonstrating the relationship between the incentives
11 provided under this chapter and the economy.

12 (c) The bank [department] biennially shall review local
13 incentives.

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

17 (1) evaluates the effectiveness of the enterprise zone
18 program;

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

21 (3) suggests legislation.

22 Sec. 2303.053. ASSISTANCE. (a) The bank [department]
23 shall assist:

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

26 (2) a unit of local government in obtaining status as a
27 federal [~~enterprise~~] zone designation that furthers the purpose of

1 this chapter;

2 (3) a nominating [~~the governing~~] body [~~of an~~
3 ~~enterprise zone~~] in obtaining assistance from another state agency,
4 including training and technical assistance to qualified
5 businesses in an enterprise [~~a~~] zone; and

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

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

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

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

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

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

27 (1) work with the responsible state and federal

1 agencies to coordinate enterprise zone programs with other programs
2 carried out in an enterprise zone, including housing, community and
3 economic development, small business, banking, financial
4 assistance, transportation, and employment training programs;

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

8 (3) work, when possible, for the consolidation of
9 periodic reports required under those programs into one summary
10 report.

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

14 SECTION 3.03. Section 2303.101, Government Code, is amended
15 to read as follows:

16 Sec. 2303.101. QUALIFICATION [~~CRITERIA~~] FOR ENTERPRISE
17 ZONE DESIGNATION. [~~(a)~~] To qualify for designation [~~be~~
18 ~~designated~~] as an enterprise zone, an area must:

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

24 (2) be an area designated as a renewal community,
25 federal empowerment zone, or federal enterprise community,
26 including any developable area [~~at least one square mile but not~~
27 ~~larger than the greater of:~~

1 ~~[(A) 10 square miles, excluding lakes,~~
2 ~~waterways, and transportation arteries; or~~

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

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

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

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

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

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

1 required by Section 2303.051 [~~until September 1 of the final year of~~
2 ~~the designation~~].

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

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

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

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

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

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

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

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

1 (3) ~~[(4)]~~ other entities in an enterprise zone or
2 affected by an ~~[the]~~ enterprise project, including a qualified
3 business, within the jurisdiction of the nominating governmental
4 entity ~~[zone]~~.

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

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

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

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

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

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

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

27 ~~[(5) a description of all efforts made to attain~~

1 ~~revitalization goals for the zone].~~

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

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

6 (1) "New permanent job" means a new employment
7 position created by a qualified business as described by Section
8 2303.402 that:

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

11 (B) is intended to exist at [~~during the period~~
12 ~~that~~] the qualified business site for at least three years after the
13 date on which a state benefit is received as authorized by this
14 chapter [~~is designated as an enterprise project under Section~~
15 ~~2303.406~~].

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

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

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

26 SECTION 3.10. Section 2303.402(a), Government Code, is
27 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 nominating [~~governing~~] body of a project or activity of the
4 person under this chapter [~~an enterprise zone~~], for the purpose of
5 local incentives [~~benefits~~], certifies that:

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

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

13 (B) economically disadvantaged individuals; or

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

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

21 (B) individuals who are economically
22 disadvantaged.

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

25 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS
26 CERTIFICATION. If the bank [~~department~~] determines that the
27 governing body eligible to nominate [~~of~~] an enterprise project

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

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

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

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

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

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

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

26 ~~[(A) 12 percent during the most recent six-year~~
27 ~~period; or~~

1 ~~[(B) four percent during the most recent~~
2 ~~three-year period].~~

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

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

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

11 (a) If the governing body approves ~~[of an enterprise zone or~~
12 ~~the governing body and administrative authority of an enterprise~~
13 ~~zone, as appropriate, approve]~~ a request made under Section
14 2303.404, the governing body may apply to the bank ~~[department]~~ for
15 the designation of the qualified business as an enterprise project,
16 only after it submits to the bank the order or ordinance and other
17 information that complies with the requirements of Sections
18 2303.4051 and 2303.4052.

19 (b) An application must~~+~~

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

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

1 ~~[(3)]~~ contain an economic analysis of the plans of the
2 qualified business for expansion, revitalization, or other
3 activity with regard to the enterprise project ~~[in the enterprise~~
4 ~~zone]~~, including:

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

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

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

13 (4) a complete description of the projected schedule
14 for completion of the specific activity described by Section
15 2303.404(b) to be undertaken by the enterprise project;

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

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

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

1 ~~[zone]~~.

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

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

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

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

21 SECTION 3.13. Subchapter D, Chapter 2303, is amended by
22 adding Sections 2303.4051 and 2303.4052 to read as 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, which will receive priority
23 designation in allocating the number of enterprise projects allowed
24 statewide per biennium as provided by Section 2303.403. The bank
25 [~~department~~] shall designate qualified businesses as enterprise
26 projects on a competitive basis. The bank [~~department~~] shall
27 [~~establish a minimum scoring threshold that must be met by the~~

1 ~~qualified business applying for a project designation and~~ make its
2 designation decisions using a weighted scale in which:

3 (1) 40 ~~[50]~~ percent of the evaluation depends on the
4 economic distress of ~~[+~~

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

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

9 (2) 25 percent of the evaluation depends on the local
10 effort to achieve development and revitalization of the block group
11 in which a proposed enterprise project is located ~~[enterprise~~
12 ~~zone]; and~~

13 (3) 35 ~~[25]~~ percent of the evaluation depends on the
14 evaluation criteria as determined by the bank ~~[department]~~, which
15 must include:

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

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

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

25 (d) The maximum number of qualified businesses that the bank
26 ~~[department]~~ may designate as enterprise projects for each
27 nominating body during any biennium is:

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

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

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

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

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

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

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

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

6 (b) A capital investment in a project 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 250 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.

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

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

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

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

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

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

19 (1) \$40,000 to \$399,999 will result in a refund of up
20 to \$2,500 per job with a maximum refund of \$25,000 for the creation
21 or retention of 10 jobs;

22 (2) \$400,000 to \$999,999 will result in a refund of up
23 to \$2,500 per job with a maximum refund of \$62,500 for the creation
24 or retention of 25 jobs;

25 (3) \$1,000,000 to \$4,999,999 will result in a refund
26 of up to \$2,500 per job with a maximum refund of \$312,500 for the
27 creation or retention of 125 jobs;

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

4 (5) \$150,000,000 to \$249,999,999 will result in a
5 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
6 for the creation or retention of 500 jobs; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (1) the purposes of this chapter; and

24 (2) the protection and promotion of the general health
25 and welfare.

26 SECTION 3.20. Sections 2303.502(b) and (c), Government
27 Code, are amended to read as follows:

1 (b) Annually each state agency shall:

2 (1) review the rules it administers that:

3 (A) may adversely affect:

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

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

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

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

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

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

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

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

23 (b) At the time of receipt of any tax benefit available as a
24 result of participating in the enterprise zone program, including a
25 state sales and use tax refund or franchise tax credit, three
26 percent of the amount of the tax benefit shall be transferred to the
27 Texas economic development bank fund under Subchapter B, Chapter

1 489, to defray the cost of administering this chapter [~~Subject to~~
2 ~~Section 2303.516, a qualified business is entitled to a refund of~~
3 ~~state taxes under Sections 151.431 and 171.501, Tax Code~~].

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

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

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

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

24 SECTION 3.24. Sections 2303.513(a) and (b), Government
25 Code, are amended to read as follows:

26 (a) After an area is designated as an enterprise zone, the
27 state, a municipality, or a county that owns a surplus building or

1 vacant land in the zone may dispose of the building or land by:

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

3 or

4 (2) [~~selling the land to a neighborhood enterprise~~
5 ~~association, or~~

6 [~~3~~] establishing an urban homestead program
7 described by Subsection (c).

8 (b) A municipality or county may sell a surplus building or
9 vacant land in the enterprise zone at less than fair market value if
10 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. The building or land may be sold
14 to a buyer who is not the highest bidder if the criteria and public
15 purpose specified in the ordinance or order are satisfied. A copy
16 of the ordinance or order must be filed with the bank [~~department~~]
17 not later than the day on which the sale occurs.

18 SECTION 3.25. Section 2303.516, Government Code, is amended
19 to read as follows:

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

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

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

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

8 (c) On the date on which a certificate of occupancy is
9 issued with respect to an enterprise project, the nominating body
10 shall audit the qualified business to determine whether the
11 business or project has followed through on any commitments or
12 goals made by it or on its behalf in the designation application.
13 On completion, the nominating body shall submit a certified copy of
14 the audit findings to the bank and comptroller.

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

20 SECTION 3.26. Subchapter G, Chapter 2303, Government Code,
21 is amended by adding Section 2303.517 to read as follows:

22 Sec. 2303.517. REPORT. Before obtaining a state benefit,
23 the qualified business must submit to the bank a certified report of
24 the actual number of jobs created or retained and the capital
25 investment made at or committed to the qualified business site.

26 SECTION 3.27. Section 2310.001, Government Code, is amended
27 by amending Subdivision (1) and adding Subdivisions (1-a) and (4-a)

1 to read as follows:

2 (1) "Bank" means the Texas Economic Development Bank
3 established under Chapter 489.

4 (1-a) "Defense worker" means:

5 (A) an employee of the United States Department
6 of Defense, including a member of the armed forces and a government
7 civilian worker;

8 (B) an employee of a government agency or private
9 business, or an entity providing a department of defense related
10 function, who is employed on a defense facility;

11 (C) an employee of a business that provides
12 direct services or products to the department of defense and whose
13 job is directly dependent on defense expenditures; or

14 (D) an employee or private contractor employed by
15 the United States Department of Energy working on a defense or
16 department of energy facility in support of a department of defense
17 related project.

18 (4-a) "Office" means the Texas Economic Development
19 and Tourism Office.

20 SECTION 3.28. Section 2310.051, Government Code, is amended
21 to read as follows:

22 Sec. 2310.051. GENERAL POWERS AND DUTIES. (a) The bank
23 [~~department~~] shall administer and monitor the implementation of
24 this chapter.

25 (b) The bank [~~department~~] shall establish criteria and
26 procedures for designating a qualified area as a readjustment zone
27 and for designating a defense readjustment project.

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

3 SECTION 3.29. Section 2310.052, Government Code, is amended
4 to read as follows:

5 Sec. 2310.052. EVALUATION; REPORT. (a) The bank
6 [~~department~~] shall conduct a continuing evaluation of the programs
7 of readjustment zones.

8 (b) On or before December 1 of each year, the office
9 [~~department~~] shall submit to the governor, the legislature, and the
10 Legislative Budget Board a report that:

11 (1) evaluates the effectiveness of the readjustment
12 zone program;

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

15 (3) suggests legislation, as appropriate.

16 SECTION 3.30. Section 2310.053, Government Code, is amended
17 to read as follows:

18 Sec. 2310.053. ASSISTANCE. (a) The bank [~~department~~]
19 shall assist:

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

22 (2) the governing body of a readjustment zone in
23 obtaining assistance from another state agency, including job
24 training and technical assistance to qualified businesses in a
25 zone; and

26 (3) the governing body of a readjustment zone in
27 encouraging small business development.

1 (b) The bank [~~department~~] shall provide to persons desiring
2 to locate and engage in business in a readjustment zone information
3 and appropriate assistance relating to the required legal
4 authorization, including a state license, permit, certificate,
5 approval, registration, or charter, to engage in business in this
6 state.

7 (c) The bank [~~department~~] shall publicize existing tax
8 incentives and economic development programs in readjustment
9 zones.

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

14 SECTION 3.31. Section 2310.054, Government Code, is amended
15 to read as follows:

16 Sec. 2310.054. COORDINATION WITH OTHER GOVERNMENTAL
17 ENTITIES. (a) In cooperation with the appropriate units of local
18 government and other state agencies, the bank [~~department~~] shall
19 coordinate and streamline state business assistance programs and
20 permit or license application procedures for businesses in
21 readjustment zones.

22 (b) The bank [~~department~~] shall work with the responsible
23 state and federal agencies to coordinate readjustment zone programs
24 with other programs carried out in a readjustment zone, including
25 housing, community and economic development, small business,
26 banking, financial assistance, transportation, and employment
27 training programs.

1 (c) The bank [~~department~~] shall encourage other state
2 agencies in awarding grants, loans, or services to give priority to
3 businesses in readjustment zones.

4 SECTION 3.32. Section 2310.102, Government Code, is amended
5 to read as follows:

6 Sec. 2310.102. ADVERSELY AFFECTED DEFENSE-DEPENDENT
7 COMMUNITY. A municipality or county is an adversely affected
8 defense-dependent community if the bank [~~department~~] determines
9 that:

10 (1) the municipality or county requires assistance
11 because of:

12 (A) the proposed or actual establishment,
13 realignment, or closure of a defense facility;

14 (B) the cancellation or termination of a United
15 States Department of Defense contract or the failure of the
16 department of defense to proceed with an approved major weapon
17 system program;

18 (C) a publicly announced planned major reduction
19 in department of defense spending that would directly and adversely
20 affect the municipality or county; or

21 (D) the closure or a significant reduction of the
22 operations of a defense facility as the result of a merger,
23 acquisition, or consolidation of a defense contractor operating the
24 facility; and

25 (2) the municipality or county is expected to
26 experience, during the period between the beginning of the federal
27 fiscal year during which an event described by Subdivision (1) is

1 finally approved and the date that the event is to be substantially
2 completed, a direct loss of:

3 (A) 2,500 or more defense worker jobs in any area
4 of the municipality or county that is located in an urbanized area
5 of a metropolitan statistical area;

6 (B) 1,000 or more defense worker jobs in any area
7 of the municipality or county that is not located in an urbanized
8 area of a metropolitan statistical area; or

9 (C) one percent of the civilian jobs in the
10 municipality or county.

11 SECTION 3.33. Sections 2310.105(a) and (b), Government
12 Code, are amended to read as follows:

13 (a) For an area to be designated as a readjustment zone, the
14 nominating body, after nominating the area as a readjustment zone,
15 must send to the bank [~~department~~] a written application for
16 designation of the area as a readjustment zone.

17 (b) The application must include:

18 (1) a certified copy of the ordinance or order, as
19 appropriate, nominating the area as a readjustment zone;

20 (2) a map of the area showing existing streets and
21 highways;

22 (3) an analysis and appropriate supporting documents
23 and statistics demonstrating that the area qualifies for
24 designation as a readjustment zone;

25 (4) a statement that specifies each tax incentive,
26 grant, other financial incentive or benefit, or program to be
27 provided by the nominating body to business enterprises in the area

1 that is not to be provided throughout the governmental entity or
2 entities nominating the area as a readjustment zone;

3 (5) a statement of the economic development and
4 planning objectives for the area;

5 (6) an estimate of the economic impact of the
6 designation of the area as a readjustment zone on the revenues of
7 the governmental entity or entities nominating the area as a
8 readjustment zone, considering all the financial incentives and
9 benefits and the programs contemplated;

10 (7) a transcript or tape recording of all public
11 hearings on the proposed zone;

12 (8) if the application is a joint application, a
13 description and copy of the agreement between the applicants;

14 (9) the procedures for negotiating with residents,
15 community groups, and other entities affected by the designation of
16 the area as a readjustment zone and with qualified businesses in the
17 area;

18 (10) a description of the administrative authority, if
19 one is to be appointed for the readjustment zone under Section
20 2310.202; and

21 (11) any additional information the bank [~~department~~]
22 requires.

23 SECTION 3.34. Section 2310.106, Government Code, is amended
24 to read as follows:

25 Sec. 2310.106. REVIEW OF APPLICATION. (a) On receipt of an
26 application for the designation of a readjustment zone, the bank
27 [~~department~~] shall review the application to determine if the

1 nominated area qualifies for designation as a readjustment zone
2 under this chapter.

3 (b) The bank [~~department~~] shall allow an applicant to
4 correct any omission or clerical error in the application and to
5 return the application to the bank [~~department~~] on or before the
6 15th day after the date on which the bank [~~department~~] receives the
7 application.

8 SECTION 3.35. Sections 2310.107(a), (c), and (d),
9 Government Code, are amended to read as follows:

10 (a) If the bank [~~department~~] determines that a nominated
11 area for which a designation application has been received
12 satisfies the criteria under Section 2310.101, the bank
13 [~~department~~] shall negotiate with the nominating body for a
14 designation agreement.

15 (c) The bank [~~department~~] shall complete the negotiations
16 and sign the agreement not later than the 60th day after the date on
17 which the application is received unless the bank [~~department~~]
18 extends that period to the 90th day after the date on which the
19 application was received.

20 (d) If an agreement is not completed within the 60-day
21 period provided by Subsection (c), the bank [~~department~~] shall
22 provide to the nominating body the specific areas of concern and a
23 final proposal for the agreement.

24 SECTION 3.36. Section 2310.108, Government Code, is amended
25 to read as follows:

26 Sec. 2310.108. DENIAL OF APPLICATION; NOTICE. (a) The bank
27 [~~department~~] may deny an application for the designation of a

1 readjustment zone only if the bank [~~department~~] determines that the
2 nominated area does not satisfy the criteria under Section
3 2310.101.

4 (b) The bank [~~department~~] shall inform the nominating body
5 of the specific reasons for denial of an application, including
6 denial under Section 2310.107(e).

7 SECTION 3.37. Section 2310.110(e), Government Code, is
8 amended to read as follows:

9 (e) For each amendment of a readjustment zone boundary, the
10 nominating body shall pay the bank [~~department~~] a reasonable fee,
11 in an amount specified by the bank [~~department~~], not to exceed \$500.
12 The bank [~~department~~] may use fees collected under this subsection
13 to administer this chapter and for other purposes to advance this
14 chapter.

15 SECTION 3.38. Section 2310.111(a), Government Code, is
16 amended to read as follows:

17 (a) The bank [~~department~~] may remove the designation of an
18 area as a readjustment zone if:

19 (1) the area no longer meets the criteria for
20 designation under this chapter or by [~~department~~] rule of the
21 office adopted under this chapter; or

22 (2) the bank [~~department~~] determines that the
23 governing body of the readjustment zone has not complied with
24 commitments made in the ordinance or order nominating the area as a
25 readjustment zone.

26 SECTION 3.39. Section 2310.203, Government Code, is amended
27 to read as follows:

1 Sec. 2310.203. LIAISON. The governing body of a
2 readjustment zone shall designate a liaison to communicate and
3 negotiate with:

- 4 (1) the bank [~~department~~];
5 (2) the administrative authority, if one exists;
6 (3) a defense readjustment project; and
7 (4) other entities in or affected by the readjustment
8 zone.

9 SECTION 3.40. Section 2310.204(a), Government Code, is
10 amended to read as follows:

11 (a) Not later than October 1 of each year, the governing
12 body of a readjustment zone shall submit to the bank [~~department~~] a
13 report in the form required by the bank [~~department~~].

14 SECTION 3.41. Section 2310.302(a), Government Code, is
15 amended to read as follows:

16 (a) A person is a qualified business if the bank
17 [~~department~~], for the purpose of state benefits under this chapter,
18 or the governing body of a readjustment zone, for the purpose of
19 local benefits, certifies that:

20 (1) the person is engaged in or has provided
21 substantial commitment to initiate the active conduct of a trade or
22 business in the readjustment zone; and

23 (2) at least 25 percent of the person's new employees
24 in the readjustment zone are:

25 (A) residents of the governing jurisdiction;

26 (B) economically disadvantaged individuals, as
27 defined by Section 2303.402(c); or

1 (C) dislocated defense workers.

2 SECTION 3.42. Sections 2310.303 and 2310.304, Government
3 Code, are amended to read as follows:

4 Sec. 2310.303. PROHIBITION ON QUALIFIED BUSINESS
5 CERTIFICATION. If the bank [~~department~~] determines that the
6 governing body of a readjustment zone is not complying with this
7 chapter, the bank [~~department~~] shall prohibit the certification of
8 a qualified business in the zone until the bank [~~department~~]
9 determines that the governing body is complying with this chapter.
10 The bank [~~department~~] may not designate more than two businesses in
11 a single readjustment zone as defense readjustment projects.

12 Sec. 2310.304. REQUEST FOR APPLICATION FOR DEFENSE
13 READJUSTMENT PROJECT DESIGNATION. A qualified business in a
14 readjustment zone may request that the governing body of the
15 readjustment zone apply to the bank [~~department~~] for designation of
16 the business as a defense readjustment project. The request must
17 also be made to the readjustment zone's administrative authority,
18 if one exists.

19 SECTION 3.43. Sections 2310.305(a) and (b), Government
20 Code, are amended to read as follows:

21 (a) If the governing body of a readjustment zone or the
22 governing body and administrative authority of a readjustment zone,
23 as appropriate, approve a request made under Section 2310.304, the
24 governing body may apply to the bank [~~department~~] for the
25 designation of the qualified business as a defense readjustment
26 project.

27 (b) An application must:

1 (1) describe the procedures and efforts of the
2 governmental entity or entities that applied to have the area
3 designated as a readjustment zone to facilitate and encourage
4 participation by and negotiation among affected entities in the
5 zone in which the qualified business is located;

6 (2) contain an economic analysis of the plans of the
7 qualified business for expansion, revitalization, or other
8 activity in the readjustment zone, including:

9 (A) the number of anticipated new permanent jobs
10 the business will create;

11 (B) the anticipated number of permanent jobs the
12 business will retain;

13 (C) the amount of investment to be made in the
14 zone; and

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

17 (3) describe the local effort made by the governmental
18 entity or entities that applied to have the area designated as a
19 readjustment zone, the administrative authority, if one exists, the
20 qualified business, and other affected entities to develop and
21 revitalize the zone.

22 SECTION 3.44. Sections 2310.306, 2310.307, and 2310.308,
23 Government Code, are amended to read as follows:

24 Sec. 2310.306. DEFENSE READJUSTMENT PROJECT DESIGNATION.

25 (a) The bank [~~department~~] may designate a qualified business as a
26 defense readjustment project only if the bank [~~department~~]
27 determines that:

1 (1) the business is a qualified business under Section
2 2310.302 that is located in or has made a substantial commitment to
3 locate in a defense readjustment zone;

4 (2) the governing body of the readjustment zone making
5 the application has demonstrated that a high level of cooperation
6 exists among public, private, and neighborhood entities in the
7 zone; and

8 (3) the designation will contribute significantly to
9 the achievement of the plans of the governing body making the
10 application for development and revitalization of the zone.

11 (b) The bank [~~department~~] shall designate qualified
12 businesses as defense readjustment projects on a competitive basis.
13 The bank [~~department~~] shall make its designation decisions using a
14 weighted scale in which:

15 (1) 50 percent of the evaluation is based on the effect
16 of the loss of defense expenditures and employment on the
17 community;

18 (2) 25 percent of the evaluation depends on the local
19 effort to achieve development and revitalization of the
20 readjustment zone; and

21 (3) 25 percent of the evaluation depends on the
22 evaluation criteria as determined by the bank [~~department~~], which
23 must include:

24 (A) the level of cooperation and support the
25 project applicant commits to the revitalization goals of the zone;
26 and

27 (B) the type and wage level of the jobs to be

1 created or retained by the business.

2 (c) The bank [~~department~~] may remove a defense readjustment
3 project designation if it determines that the business is not
4 complying with a requirement for its designation.

5 Sec. 2310.307. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.
6 When the bank [~~department~~] designates a business as a defense
7 readjustment project, the bank [~~department~~] shall allocate to the
8 project the maximum number of new permanent jobs or retained jobs
9 eligible to be included in a computation of a tax refund for the
10 project. The number may not exceed 500 or a number equal to 110
11 percent of the number of anticipated new permanent jobs or retained
12 jobs specified in the application for designation of the business
13 as a defense readjustment project under Section 2310.305, whichever
14 is less.

15 Sec. 2310.308. DURATION OF CERTAIN DESIGNATIONS. The
16 bank's [~~department's~~] designation of a qualified business as a
17 defense readjustment project is effective until the fifth
18 anniversary of the date on which the designation is made regardless
19 of whether the readjustment zone in which the project is located
20 expires before the fifth anniversary of the project.

21 SECTION 3.45. Section 2310.402(b), Government Code, is
22 amended to read as follows:

23 (b) The bank [~~department~~] shall disseminate the reports to
24 the governing bodies of readjustment zones and others as necessary
25 to advance the purposes of this chapter.

26 SECTION 3.46. Section 2310.403(d), Government Code, is
27 amended to read as follows:

1 (d) The office [~~department~~] or another state agency may give
2 preference to readjustment zones in granting economic development
3 money or other benefits.

4 SECTION 3.47. Section 2310.404(b), Government Code, as
5 amended by Article 1, Chapter 1134, Acts of the 77th Legislature,
6 Regular Session, 2001, is amended to read as follows:

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

11 SECTION 3.48. Section 2310.404(b), Government Code, as
12 amended by Article 2, Chapter 1134, Acts of the 77th Legislature,
13 Regular Session, 2001, is amended to read as follows:

14 (b) Not later than the 60th day after the last day of each
15 fiscal year, the comptroller shall report to the bank [~~department~~]
16 the statewide total of the tax refunds made under this section
17 during that fiscal year.

18 SECTION 3.49. Section 2310.410(b), Government Code, is
19 amended to read as follows:

20 (b) A municipality or county may sell a surplus building or
21 vacant land in the readjustment zone at less than fair market value
22 if the governing body of the municipality or county by ordinance or
23 order, as appropriate, adopts criteria that specify the conditions
24 and circumstances under which the sale may occur and the public
25 purpose to be achieved by the sale. A copy of the ordinance or order
26 must be filed with the bank [~~department~~] not later than the day on
27 which the sale occurs.

1 SECTION 3.50. Section 2310.413, Government Code, is amended
2 to read as follows:

3 Sec. 2310.413. MONITORING DEFENSE READJUSTMENT PROJECT
4 COMMITMENTS. (a) The bank [~~department~~] may monitor a defense
5 readjustment project to determine whether and to what extent the
6 project has followed through on any commitments made by it or on its
7 behalf under this chapter.

8 (b) The bank [~~department~~] may determine that the defense
9 readjustment project is not eligible for state tax refunds and
10 credits under Section 2310.404 if the bank [~~department~~] finds that:

11 (1) the project is not willing to cooperate with the
12 bank [~~department~~] in providing the bank [~~department~~] with the
13 information the bank [~~department~~] needs to make the determination
14 under Subsection (a); or

15 (2) the project has substantially failed to follow
16 through on its commitments made by it or on its behalf under this
17 chapter.

18 SECTION 3.51. Sections 151.429(a) and (b), Tax Code, as
19 amended by Article 1, Chapter 1134, Acts of the 77th Legislature,
20 Regular Session, 2001, are amended to read as follows:

21 (a) An enterprise project is eligible for a refund in the
22 amount provided by this section of the taxes imposed by this chapter
23 on purchases of:

24 (1) equipment or machinery sold to an enterprise
25 project for use at the qualified business site [~~in an enterprise~~
26 ~~zone~~];

27 (2) building materials sold to an enterprise project

1 for use in remodeling, rehabilitating, or constructing a structure
2 at the qualified business site [~~in an enterprise zone~~];

3 (3) labor for remodeling, rehabilitating, or
4 constructing a structure by an enterprise project at the qualified
5 business site [~~in an enterprise zone~~];

6 (4) electricity and natural gas purchased and consumed
7 in the normal course of business at the qualified business site [~~in~~
8 ~~the enterprise zone~~];

9 (5) tangible personal property purchased and consumed
10 in the normal course of business at the qualified business site [~~in~~
11 ~~the enterprise zone~~]; and

12 (6) taxable services.

13 (b) Subject to the limitations provided by Subsection (c) of
14 this section, an enterprise project qualifies for a refund of taxes
15 under this section based on the amount of capital investment made at
16 the qualified business site and the refund per job with a maximum
17 refund to be included in a computation of a tax refund for the
18 project. A capital investment at the qualified business site of:

19 (1) \$40,000 to \$399,999 will result in a refund of up
20 to \$2,500 per job with a maximum refund of \$25,000 for the creation
21 or retention of 10 jobs;

22 (2) \$400,000 to \$999,999 will result in a refund of up
23 to \$2,500 per job with a maximum refund of \$62,500 for the creation
24 or retention of 25 jobs;

25 (3) \$1,000,000 to \$4,999,999 will result in a refund
26 of up to \$2,500 per job with a maximum refund of \$312,500 for the
27 creation or retention of 125 jobs;

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

4 (5) \$150,000,000 to \$249,999,999 will result in a
5 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
6 for the creation or retention of 500 jobs; or

7 (6) \$250,000,000 or more will result in a refund of up
8 to \$7,500 per job with a maximum refund of \$3,750,000 for the
9 creation or retention of 500 jobs [~~of \$5,000 for each new permanent~~
10 ~~job or job that has been retained by the enterprise project for a~~
11 ~~qualified employee].~~

12 SECTION 3.52. Sections 151.429(a) and (b), Tax Code, as
13 amended by Article 2, Chapter 1134, Acts of the 77th Legislature,
14 Regular Session, 2001, are amended to read as follows:

15 (a) An enterprise project is eligible for a refund in the
16 amount provided by this section of the taxes imposed by this chapter
17 on purchases of:

18 (1) equipment or machinery sold to an enterprise
19 project for use at the qualified business site [~~in an enterprise~~
20 ~~zone~~];

21 (2) building materials sold to an enterprise project
22 for use in remodeling, rehabilitating, or constructing a structure
23 at the qualified business site [~~in an enterprise zone~~];

24 (3) labor for remodeling, rehabilitating, or
25 constructing a structure by an enterprise project at the qualified
26 business site [~~in an enterprise zone~~]; and

27 (4) electricity and natural gas purchased and consumed

1 in the normal course of business at the qualified business site [~~in~~
2 ~~the enterprise zone~~].

3 (b) Subject to the limitations provided by Subsection (c) of
4 this section, an enterprise project qualifies for a refund of taxes
5 under this section based on the amount of capital investment made at
6 the qualified business site and refund per job with a maximum refund
7 to be included in a computation of a tax refund for the project. A
8 capital investment at the qualified business site of:

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

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

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

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

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

24 (6) \$250,000,000 or more will result in a refund of up
25 to \$7,500 per job with a maximum refund of \$3,750,000 for the
26 creation or retention of 500 jobs [~~of \$2,000 for each new permanent~~
27 ~~job or job that has been retained by the enterprise project for a~~

1 ~~qualified employee~~].

2 SECTION 3.53. Section 151.429, Tax Code, is amended by
3 amending Subsections (c), (d), (e), and (g) and adding Subsections
4 (i) and (j) to read as follows:

5 (c) The total amount of tax refund that an enterprise
6 project may apply for in a state fiscal year may not exceed
7 \$250,000. If an enterprise project qualifies in a state fiscal year
8 for a refund of taxes in an amount in excess of the limitation
9 provided by this subsection, it may apply for a refund of those
10 taxes in a subsequent year, subject to the \$250,000 limitation for
11 each year. [~~However, an enterprise project may not apply for a
12 refund under this section after the end of the state fiscal year
13 immediately following the state fiscal year in which the enterprise
14 project's designation as an enterprise project expires or is
15 removed.~~] The total amount that may be refunded to an enterprise
16 project under this section may not exceed the amount determined by
17 multiplying \$250,000 by the number of state fiscal years during
18 which the enterprise project created one or more jobs for qualified
19 employees.

20 (d) To receive a refund under this section, an enterprise
21 project must apply to the comptroller for the refund. The Texas
22 [~~Department of~~] Economic Development Bank established under
23 Chapter 489, Government Code, shall provide the comptroller with
24 the assistance that the comptroller requires in administering this
25 section.

26 (e) In this section:

27 (1) "Enterprise project" means a person designated by

1 the Texas [~~Department of~~] Economic Development Bank as an
2 enterprise project under Chapter 2303, Government Code.

3 (2) "Enterprise zone~~[7]~~" and "qualified employee~~[7]~~"
4 [~~and "qualified hotel project"~~] have the meanings assigned to those
5 terms by Section 2303.003, Government Code.

6 (3) "New permanent job" means a new employment
7 position created by a qualified business as described by Section
8 2303.402, Government Code, that:

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

11 (B) is intended to exist for at least three years
12 after a state benefit is received [~~during the period that the~~
13 ~~qualified business is designated as an enterprise project~~] under
14 Chapter 2303, Government Code.

15 (4) "Retained job" has the meaning assigned by Section
16 2303.401, Government Code.

17 (5) "Double jumbo enterprise project" and "triple
18 jumbo enterprise project" have the meanings assigned by Section
19 2303.407, Government Code.

20 (g) The refund provided by this section is conditioned on
21 the enterprise project maintaining at least the same level of
22 employment of qualified employees as existed at the time it
23 qualified for a refund for a period of three years from that date.
24 The comptroller [~~Texas Department of Economic Development~~] shall
25 annually certify [~~to the comptroller~~] whether that level of
26 employment of qualified employees has been maintained. On [~~the~~
27 ~~Texas Department of Economic Development~~] certifying that such a

1 level has not been maintained, the comptroller shall assess that
2 portion of the refund attributable to any such decrease in
3 employment, including penalty and interest from the date of the
4 refund.

5 (i) As provided by Subsection (c), a double jumbo enterprise
6 project is eligible for a maximum refund of \$500,000 and a triple
7 jumbo enterprise project is eligible for a maximum refund of
8 \$750,000 in each state fiscal year.

9 (j) An enterprise project approved by the Texas Economic
10 Development Bank after September 1, 2003, may not receive a refund
11 before September 1, 2005.

12 SECTION 3.54. Sections 151.4291(d) and (g), Tax Code, are
13 amended to read as follows:

14 (d) To receive a refund under this section, a defense
15 readjustment project must apply to the comptroller for the refund.
16 The Texas [~~Department of~~] Economic Development Bank shall provide
17 the comptroller with the assistance that the comptroller requires
18 in administering this section.

19 (g) The refund provided by this section is conditioned on
20 the defense readjustment project maintaining at least the same
21 level of employment of qualified employees as existed at the time it
22 qualified for a refund for a period of three years from that date.
23 The comptroller [~~Texas Department of Economic Development~~] shall
24 annually certify to [~~the comptroller and~~] the Legislative Budget
25 Board whether that level of employment of qualified employees has
26 been maintained. On [~~the Texas Department of Economic Development~~]
27 certifying that such a level has not been maintained, the

1 comptroller shall assess that portion of the refund attributable to
2 any such decrease in employment, including penalty and interest
3 from the date of the refund.

4 SECTION 3.55. Section 151.4291(e)(1), Tax Code, is amended
5 to read as follows:

6 (1) "Defense readjustment project" means a person
7 designated by the Texas [~~Department of~~] Economic Development Bank
8 as a defense readjustment project under Chapter 2310, Government
9 Code.

10 SECTION 3.56. Sections 151.431(a) and (b), Tax Code, are
11 amended to read as follows:

12 (a) A qualified business operating in the [~~enterprise~~
13 ~~zone's~~] jurisdiction of the nominating governmental entity for at
14 least three consecutive years may apply for and be granted a onetime
15 refund of sales and use tax paid by the qualified business after
16 certification of the qualified business as provided by Subsection
17 (b) of this section to a vendor or directly to the state for the
18 purchase of equipment or machinery sold to the business for use in
19 an enterprise project [~~zone~~] if the governing body or bodies
20 certify to the comptroller [~~Texas Department of Economic~~
21 ~~Development~~] that the business is retaining 10 or more jobs held by
22 qualified employees during the year. For the purposes of this
23 subsection "job" means an existing employment position of a
24 qualified business that has provided employment to a qualified
25 employee of at least 1,820 hours annually.

26 (b) Only qualified businesses that have been certified as
27 eligible for a refund under this section by the governing body or

1 bodies to the [~~department and by the department to the~~
2 comptroller, including certification of the number of jobs
3 retained, are entitled to the refund. [~~During each calendar year,~~
4 ~~no more than three eligible qualified businesses may be certified~~
5 ~~to the department by a municipality or county, subject to~~
6 ~~Subsection (c).~~]

7 SECTION 3.57. Section 151.431(e)(2), Tax Code, is amended
8 to read as follows:

9 (2) "Governing body" means the governing body of a
10 municipality or county that applied to have the project or activity
11 of a qualified business [area] designated as an enterprise project
12 [zone] under Section 2303.405 [~~2303.105~~], Government Code.

13 SECTION 3.58. Sections 171.501(a) and (b), Tax Code, are
14 amended to read as follows:

15 (a) A corporation that has been certified a qualified
16 business as provided by Chapter 2303, Government Code, may apply
17 for and be granted a refund of franchise tax paid with an initial or
18 annual report if the governing body certifies [~~or bodies certify~~]
19 to the comptroller [~~Texas Department of Economic Development~~] that
20 the business has created 10 or more new jobs [~~in its enterprise~~
21 ~~zone~~] held by qualified employees during the calendar year that
22 contains the end of the accounting period on which the report is
23 based. [~~The Texas Department of Economic Development shall certify~~
24 ~~eligibility for any refund to the comptroller.~~]

25 (b) Only qualified businesses that have been certified as
26 eligible for a refund under this section by the governing body [~~or~~
27 ~~bodies~~] to the [~~department and by the department to the~~

1 comptroller are entitled to the refund. [~~During each calendar~~
2 ~~year, no more than three eligible qualified businesses may be~~
3 ~~certified to the department by a municipality or county, subject to~~
4 ~~Subsection (c).~~]

5 SECTION 3.59. Section 171.501(e)(2), Tax Code, is amended
6 to read as follows:

7 (2) "Governing body" means the governing body of a
8 municipality or county that applied to have the project or activity
9 of a qualified business [area] designated as an enterprise project
10 [zone] under Section 2303.405 [2303.105], Government Code.

11 SECTION 3.60. Sections 171.751(13) and (14), Tax Code, as
12 amended by Chapter 1134, Acts of the 77th Legislature, Regular
13 Session, 2001, effective September 1, 2003, are amended to read as
14 follows:

15 (13) "Defense readjustment project" means:

16 (A) a person designated by the Texas Department
17 of Economic Development as a defense readjustment project under
18 Chapter 2310, Government Code, on or after September 1, 2001, but
19 before September 1, 2003; and

20 (B) a person designated by the Texas Economic
21 Development Bank as a defense readjustment project under Chapter
22 2310, Government Code, on or after September 1, 2003.

23 (14) "Enterprise project" means:

24 (A) a person designated by the Texas Department
25 of Economic Development as an enterprise project under Chapter
26 2303, Government Code, on or after September 1, 2001, but before
27 September 1, 2003; and

1 (B) a person designated by the Texas Economic
2 Development Bank as an enterprise project under Chapter 2303,
3 Government Code, on or after September 1, 2003.

4 SECTION 3.61. Article 21.49B, Insurance Code, is amended to
5 read as follows:

6 Art. 21.49B. PROPERTY AND CASUALTY INSURANCE INITIATIVES
7 TASK FORCE. The commissioner may establish a task force to study
8 the utility and feasibility of instituting various property and
9 casualty insurance initiatives in this state. The initiatives to
10 be studied may include, but are not limited to:

11 (1) possible coordination with the Texas Economic
12 Development Bank [~~Department of Commerce~~] to make certain property
13 and casualty insurance an enterprise zone program pursuant to
14 Chapter 2303, Government Code;

15 (2) possible coordination with Neighborhood Housing
16 Service (NHS) Programs to establish voluntary NHS-Insurance
17 Industry Partnerships;

18 (3) possible insurance agent programs to increase
19 minority agency access to standard insurance companies, including
20 minority intern programs with insurance companies;

21 (4) possible tax incentives for insurance written in
22 underserved areas; and

23 (5) a consumer education program designed to increase
24 the ability of consumers to differentiate among different products
25 and providers in the property and casualty market.

26 SECTION 3.62. Sections 4(b), (d), (f), and (g), Development
27 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil

1 Statutes), are amended to read as follows:

2 (b) There is hereby created the Texas Small Business
3 Industrial Development Corporation which shall act on behalf of the
4 state to carry out the public purposes of this Act. The Texas Small
5 Business Industrial Development Corporation shall be considered to
6 be a corporation within the meaning of this Act, shall be organized
7 and governed in accordance with the provisions of this Act, and
8 shall have all of the powers, and shall be subject to all of the
9 limitations, provided for corporations by this Act, except as
10 otherwise provided by this section. For purposes of this Act, the
11 state shall be considered to be the unit under whose auspices the
12 Texas Small Business Industrial Development Corporation is created
13 [~~and the department shall be considered to be the governing body~~].
14 To the extent that the provisions of this section are inconsistent
15 with other provisions of this Act, the provisions of this section
16 shall control as to the existence, powers, limitations,
17 organization, administration, operation, and affairs of the Texas
18 Small Business Industrial Development Corporation.

19 (d) The governor shall appoint [~~members of the board of the~~
20 ~~department shall serve ex officio as~~] the board of directors of the
21 Texas Small Business Industrial Development Corporation. The
22 governor or the governor's designee and the executive director of
23 the Texas Economic Development and Tourism Office serve as
24 nonvoting ex officio members of the board.

25 (f) All programs and expenditures of the Texas Small
26 Business Industrial Development Corporation must be approved on
27 behalf of the state by the bank [~~department~~]. Expenses incurred by

1 the Texas Small Business Industrial Development Corporation in the
2 operation and administration of its programs and affairs, including
3 expenditures for employees and program assistance or development,
4 shall be paid out of fees collected or revenues generated under this
5 Act.

6 (g) The revenues and funds of the Texas Small Business
7 Industrial Development Corporation shall be deposited with one or
8 more financial institutions chosen for that purpose by the board of
9 directors. Funds of the Texas Small Business Industrial
10 Development Corporation may not be used or made available for use by
11 the bank [~~department~~] except to reimburse the bank [~~department~~] for
12 expenses it incurs in its official capacity on behalf of the Texas
13 Small Business Industrial Development Corporation.

14 SECTION 3.63. The changes in law made by this Act to Chapter
15 2303, Government Code, and Chapters 151 and 171, Tax Code, apply
16 only to an application for a designation under the enterprise zone
17 program under Chapter 2303, Government Code, as amended by this
18 Act, that is filed on or after the effective date of this Act. An
19 application for designation under the enterprise zone program that
20 is filed before the effective date of this Act is governed by the
21 law in effect on the date the application was filed, and the former
22 law is continued in effect for that purpose.

23 ARTICLE 4. REPEALER

24 SECTION 4.01. The following provisions are repealed:

- 25 (1) Chapter 146, Education Code;
26 (2) Subchapter P, Chapter 403, Government Code;
27 (3) Sections 481.001(1), (3), and (4), 481.004,

1 481.0041, 481.0043, 481.0044, 481.005(b), 481.006, 481.0068,
2 481.007, 481.010(c), 481.023(b) and (c), 481.0231, 481.028,
3 481.041, 481.045, 481.059, 481.071, 481.073(a) and (b), 481.077,
4 481.084, 481.087, 481.1665, 481.168, 481.171, 481.194(b),
5 481.197(a), 481.201, and 481.403, Government Code;

6 (4) Subchapters G and CC, Chapter 481, Government
7 Code;

8 (5) Chapters 482 and 484, Government Code;

9 (6) Sections 2303.003(2), (4), and (8),
10 2303.102-2303.108, 2303.110-2303.112, 2303.202, 2303.203,
11 2303.205(b), 2303.402(b), 2303.5055, 2303.508, and 2303.512,
12 Government Code;

13 (7) Subchapter E, Chapter 2303, Government Code;

14 (8) Section 2310.001(3), Government Code;

15 (9) Section 386.031(d), Local Government Code;

16 (10) Sections 151.431(c) and 171.501(c), Tax Code; and

17 (11) Section 39, Development Corporation Act of 1979
18 (Article 5190.6, Vernon's Texas Civil Statutes).

19 ARTICLE 5. EFFECTIVE DATE

20 SECTION 5.01. This Act takes effect September 1, 2003.