

By: Keffer of Eastland

H.B. No. 3548

A BILL TO BE ENTITLED

AN ACT

relating to economic development financing, programs, and incentives.

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

SECTION 1. Subchapter E, Chapter 481, Government Code, is amended by adding Sections 481.078 to read as follows:

Sec. 481.078. TEXAS ENTERPRISE FUND. (a) The Texas Enterprise Fund is an account in the general revenue fund.

(b) The following amounts shall be deposited in the fund:

(1) any amounts appropriated by the legislature for the fund;

(2) \$390,000,000 appropriated from the economic stabilization fund; and

(3) gifts, grants, and other donations received for the fund.

(c) The fund may be used for economic development, infrastructure development, community development, job training programs, and business incentives.

(d) Interest earned from the fund account shall be deposited to the economic stabilization fund.

(e) The enterprise fund account may be temporarily used by the Comptroller for cash management purposes.

(f) The Governor shall have authority to negotiate on behalf of the state to grant money from the fund, and may only appropriate

1 funds along with the express written consent of the Lieutenant
2 Governor or Speaker of the House of Representatives.

3 (g) Before granting money from the fund, the Governor may
4 enter into a written agreement with the entity being granted funds
5 specifying that:

6 (1) if all or any portion of the amount of the grant is
7 used to build infrastructure or make any other type of capital
8 improvement, the state must:

9 (A) retain a lien or other interest in the
10 capital improvement in proportion to the percentage of the grant
11 amount used to pay for the capital improvement; and

12 (B) ensure that if the capital improvement is
13 sold, the recipient repays the department, with interest at the
14 agreed rate and terms, any state money used to pay for the capital
15 improvement and shares with this state a proportionate amount of
16 any profit realized from the sale; and

17 (2) if, upon the expiration of a date provided in the
18 agreement, the grant recipient fails to use an amount awarded under
19 this section for any of the purposes for which the grant was
20 intended, the recipient shall repay that amount and any related
21 interest to the state at the agreed rate and terms.

22 SECTION 2. Subtitle F, Title 4, Government Code, is amended
23 by adding Chapter 489 to read as follows:

24 CHAPTER 489. TEXAS ECONOMIC DEVELOPMENT BANK

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Section 489.101. DEFINITIONS. In this chapter:

27 (1) "Account" means the community infrastructure

1 development revolving loan account.

2 (2) "Act" means the Development Corporation Act of
3 1979, Article 5190.6 Vernon's Texas Civil Statutes.

4 (3) "Bank" means the Texas Economic Development Bank.

5 (4) "Bonds" includes bonds, notes, and other evidences
6 of indebtedness.

7 (5) "Capital access loan" means a loan that is
8 entitled to be secured by the fund.

9 (6) "Child-care provider" means a small business that
10 operates or proposes to operate a day-care center or group day-care
11 home, as those terms are defined by Section 42.002, Human Resources
12 Code.

13 (7) "Day" means the period between 8 a.m. and 5 p.m. of
14 a day other than a Saturday, Sunday, or state or federal holiday.

15 (8) "Defense worker" means:

16 (A) an employee of the United States Department
17 of Defense, including a member of the armed forces and a government
18 civilian worker;

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

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

25 (D) an employee or private contractor employed by
26 the United States Department of Energy working on a defense or
27 department of energy facility in support of a department of defense

1 related project.

2 (9) "Defense worker job" means a department of defense
3 authorized permanent position or a position held or occupied by one
4 or more defense workers for more than 12 months.

5 (10) "Eligible borrower" means:

6 (A) a person who proposes to begin operating a
7 small business in an enterprise zone, as defined by subsection
8 (13), or a historically underutilized business;

9 (B) a nonprofit corporation; or

10 (C) a child-care provider.

11 (11) "Eligible community" means a local governmental
12 entity eligible for a grant under Section 486.003 and that is
13 located less than 25 miles from a defense base facility described by
14 Section 486.003(b)(1).

15 (12) "Eligible lending institution" means a financial
16 institution that makes commercial loans, is a depository of state
17 funds, and agrees to participate in the linked deposit program
18 established by this chapter and to provide collateral equal to the
19 amount of linked deposits placed with it.

20 (13) "Enterprise zone" means an area designated as an
21 enterprise zone under this chapter.

22 (14) "Financial institution" includes a bank, trust
23 company, banking association, savings and loan association,
24 mortgage company, investment bank, credit union, or nontraditional
25 financial institution.

26 (15) "Fund" means the Texas Economic Development Bank
27 Fund.

1 (16) "Historically underutilized business" means:

2 (A) a corporation formed for the purpose of
3 making a profit in which at least 51 percent of all classes of the
4 shares of stock or other equitable securities is owned by one or
5 more persons who are members of certain groups, including black
6 Americans, Hispanic Americans, women, Asian Pacific Americans, and
7 American Indians;

8 (B) a sole proprietorship formed for the purpose
9 of making a profit that is 100 percent owned, operated, and
10 controlled by a person described by Paragraph (A) of this
11 subdivision;

12 (C) a partnership formed for the purpose of
13 making a profit in which 51 percent of the assets and interest in
14 the partnership is owned by one or more persons described by
15 Paragraph (A) of this subdivision. Those persons must have
16 proportionate interest and demonstrate active participation in the
17 control, operation, and management of the partnership's affairs; or

18 (D) a joint venture in which each entity in the
19 joint venture is a historically underutilized business under this
20 subdivision.

21 (17) "Industrial development corporation" shall mean
22 a corporation created and existing under the provisions of the
23 Development Corporation Act of 1979 (V.T.C.S. article 5190.6).

24 (18) "Loan" includes a line of credit.

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

27 (A) is domiciled in this state or has at least 51

1 percent of its employees located in this state;

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

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

5 (20) "Neighborhood enterprise association" means an
6 association certified as a neighborhood enterprise association
7 under Section 489.324.

8 (21) "Nominating body" means the governing body of a
9 municipality or county, or a combination of the governing bodies of
10 municipalities or counties, that nominates and applies for
11 designation of an area as an enterprise zone.

12 (22) "Nonprofit corporation" means a not for profit
13 corporation organized under the Texas Non-Profit Corporation Act
14 (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

15 (23) "Nonprofit organization" means a private,
16 nonprofit, tax-exempt corporation, association, or organization
17 listed in Section 501(c)(3) Internal Revenue Code of 1986, that is
18 domiciled in this state or has at least 51 percent of its members
19 located in this state.

20 (24) "Office" means the Texas Economic Development
21 Office.

22 (25) "Panel" means the Defense Economic Adjustment
23 Assistance Panel.

24 (26) "Project" means a project as defined by the
25 Development Corporation Act of 1979 (V.T.C.S. article 5190.6).

26 (27) "Qualified business" means a person certified as
27 a qualified business under Section 489.328.

1 (28) "Qualified employee" means a person who:

2 (A) works for a qualified business; and

3 (B) performs at least 50 percent of the person's
4 service for the business in the readjustment zone.

5 (29) "Qualified hotel project" means a hotel proposed
6 to be constructed by a municipality or a nonprofit municipally
7 sponsored local government corporation created under the Texas
8 Transportation Corporation Act, Chapter 431, Transportation Code,
9 that is within 1,000 feet of a convention center owned by a
10 municipality having a population of 1,500,000 or more, including
11 shops, parking facilities, and any other facilities ancillary to
12 the hotel.

13 (30) "Readjustment zone" means an area designated as a
14 defense economic readjustment zone under this chapter.

15 (31) "Reserve account" means an account established in
16 a participating financial institution on approval of the office in
17 which money is deposited to serve as a source of additional revenue
18 to reimburse the financial institution for losses on loans enrolled
19 in the program.

20 (32) "Small business" means a corporation,
21 partnership, sole proprietorship, or other legal entity that:

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

24 (B) is formed to make a profit;

25 (C) is independently owned and operated; and

26 (D) employs fewer than 100 full-time employees.

27 Section 489.102. PURPOSE. (a) The office shall establish a

1 Texas Economic Development Bank for the purpose of providing
2 globally competitive, cost effective state incentives to expanding
3 or relocating businesses and to ensure that Texas communities and
4 businesses have access to capital for economic development.

5 (b) The bank shall offer a variety of financial incentives
6 to help Texas communities and businesses compete and succeed in the
7 global marketplace. The bank shall assist communities by providing
8 them with grants and debt financing with which to fund their
9 economic development efforts.

10 (c) The bank may provide qualifying communities with tax
11 incentives for expanding or relocating businesses and may offer
12 incentives to lenders to make loans to near bankable businesses and
13 low interest loans to qualifying businesses.

14 (d) The bank may offer bond based long-term debt financing
15 for capital investment in large commercial and industrial projects,
16 act as a link between businesses searching for investment capital
17 and potential investors, inform institutional lenders of Texas
18 economic development plans and strategies for each region of the
19 state and encourage them to support these plans in their marketing
20 and investment strategies.

21 (e) The bank may offer communities a one-stop source of
22 financing for their economic development efforts and technical
23 assistance in the development of their incentives programs to
24 attract and retain businesses as well as in the design of incentives
25 packages for specific prospects.

26 (f) The bank may also provide expanding or relocating
27 businesses with a single source for information concerning

1 financial incentives offered by Texas to relocating or expanding
2 businesses.

3 (g) The bank may allocate its resources as necessary to
4 efficiently meet the level of demand experienced by each program
5 under this chapter. The bank's effectiveness shall be measured on
6 the basis of the number of jobs created and retained and the total
7 non-state dollars leveraged as a result of its efforts.

8 (h) The bank shall charge fees to the beneficiaries of its
9 services as necessary. These fees may be used to support the bank's
10 administration of its programs and implementation of its
11 strategies.

12 Section 489.103. FUNDING. (a) The Texas Economic
13 Development Bank fund is a dedicated account in the general revenue
14 fund.

15 (b) Appropriations for the implementation and
16 administration of this chapter, funds deposited into the Capital
17 Access Fund No. 5035 and the Texas Leverage Program Fund No. 851,
18 investment earnings, fees charged under this chapter, federal
19 funds, and any other amounts received by the state under this
20 chapter shall be deposited in the Texas Economic Development Bank
21 Fund.

22 (c) Money in the fund may be appropriated only to the office
23 for use in carrying out the purposes of this chapter.

24 (d) The office may accept gifts, grants, and donations from
25 any source for the purposes of this chapter.

26 Section 489.104. POWERS OF THE OFFICE IN ADMINISTERING THE
27 TEXAS ECONOMIC DEVELOPMENT BANK FUND. (a) The office shall

1 administer the fund. In administering the fund, the office has the
2 powers necessary to carry out the purposes of this chapter,
3 including the power to:

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

7 (2) invest money in obligations and select and use
8 depositories for its money as determined proper by the office and
9 permitted by law;

10 (3) impose and collect fees and charges in connection
11 with any transaction and provide for reasonable penalties for
12 delinquent payment or performance; and

13 (4) issue bonds for economic development projects as
14 defined by the Industrial Development Corporation Act of 1979.

15 (b) In administering the Texas Small Business Industrial
16 Development Corporation, the office may:

17 (1) make loans through the purchase of or
18 participation in, and pledge, hypothecate, negotiate, and sell,
19 bonds, notes, and other evidences of indebtedness incurred by users
20 to finance projects that represent a direct loan, grant, or loan
21 participation, or the repayment of which is totally or partially
22 insured or otherwise guaranteed, by the United States of America,
23 by the state, or by any agency, office, or instrumentality of
24 either; and

25 (2) otherwise provide financing for users, either
26 directly or indirectly, in the manner that the Texas Small Business
27 Industrial Development Corporation determines to be necessary or

1 convenient for the performance of its public purposes, functions,
2 and duties under this chapter.

3 (c) The office shall adopt rules necessary to carry out the
4 purposes of this chapter.

5 Section 489.105. REPORTS; AUDITS. (a) On or before January
6 1 of each year, the office shall submit to the legislature an annual
7 status report on the activities of the Texas Economic Development
8 Bank.

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

11 Section 489.106. STATE LIABILITY PROHIBITED. The state and
12 its officers and employees are not liable to participants for
13 grants, loans, or other transactions under this chapter except as
14 specifically provided by law.

15 Section 489.107. PROGRAMS AND SERVICES CONSTITUTING THE
16 TEXAS ECONOMIC DEVELOPMENT BANK. The bank shall include, but is not
17 limited to, the following programs and services:

18 (1) the Texas Small Business Industrial Development
19 Corporation;

20 (2) the Capital Access Program;

21 (3) the Texas Leverage Fund;

22 (4) the Linked Deposit Program;

23 (5) the Enterprise Zone Program;

24 (6) the Industrial Revenue Bond Program;

25 (7) the Defense Economic Adjustment Assistance Grant
26 Program;

27 (8) the Defense Economic Readjustment Zone Program;

- 1 (9) the Defense Revolving Loan Program;
2 (10) the Texas Small Business Incubator Fund; and
3 (11) the federal Empowerment Zone, Enterprise
4 Community, and Renewal Community Program.

5 SUBCHAPTER B. FINANCE PROGRAMS

6 Section 489.201. TEXAS SMALL BUSINESS INDUSTRIAL
7 DEVELOPMENT CORPORATION. (a) The Texas Small Business Industrial
8 Development Corporation shall act on behalf of the state to carry
9 out the public purposes of this chapter. The Texas Small Business
10 Industrial Development Corporation shall be considered to be a
11 corporation within the meaning of the Development Corporation Act
12 of 1979 (Article 5190.6 Vernon's Texas Civil Statutes), shall be
13 organized and governed in accordance with the provisions of the
14 Act, and shall have all of the powers, and shall be subject to all of
15 the limitations, provided for corporations by the Act, except as
16 otherwise provided by this section. For purposes of the Act, the
17 state shall be considered to be the unit under whose auspices the
18 Texas Small Business Industrial Development Corporation is created
19 and the office shall be considered to be the governing body. To the
20 extent that the provisions of this section are inconsistent with
21 other provisions of the Act, the provisions of this section shall
22 control as to the existence, powers, limitations, organization,
23 administration, operation, and affairs of the Texas Small Business
24 Industrial Development Corporation.

25 (b) All bonds issued and delivered by the Texas Small
26 Business Industrial Development Corporation before September 1,
27 1987, and all proceedings authorizing those bonds are validated,

1 ratified, confirmed, and approved in all respects, and they are
2 incontestable.

3 (c) The governor shall appoint the board of directors of the
4 Texas Small Business Industrial Development Corporation. The
5 governor or his designee shall serve ex officio as a member of the
6 board of directors.

7 (d) A director, officer, employee, or member of the office
8 acting on behalf of the Texas Small Business Industrial Development
9 Corporation is not personally liable for damage, loss, or injury
10 resulting from the performance of the person's duties under this
11 chapter or on any contract, commitment, or agreement executed on
12 behalf of the Texas Small Business Industrial Development
13 Corporation under this chapter.

14 (e) All programs and expenditures of the Texas Small
15 Business Industrial Development Corporation must be approved on
16 behalf of the state by the office. Expenses incurred by the Texas
17 Small Business Industrial Development Corporation in the operation
18 and administration of its programs and affairs, including
19 expenditures for employees and program assistance or development,
20 shall be paid out of fees collected or revenues generated under this
21 chapter.

22 (f) The revenues and funds of the Texas Small Business
23 Industrial Development Corporation shall be deposited with one or
24 more financial institutions chosen for that purpose by the board of
25 directors.

26 (g) Notwithstanding any other provision of this Act,
27 "project" includes any use of amounts financed through the purchase

1 by the Texas Small Business Industrial Development Corporation of
2 bonds, notes, or other evidences of indebtedness of users under
3 this subsection if the uses are found by the board of directors of
4 the Texas Small Business Industrial Development Corporation to be
5 required or suitable for the promotion of economic development in
6 the state. Those findings may be based solely on a review by the
7 board of directors of the Texas Small Business Industrial
8 Development Corporation of the criteria used to determine
9 eligibility of a user for obtaining a direct loan, grant, loan
10 participation, insurance, or any other guarantee from the United
11 States of America, the state, or any agency or instrumentality of
12 either. Proceeds of bonds issued before September 1, 1987, may be
13 used to pay all or part of the costs of a project regardless of
14 whether the costs or project were within the definition of those
15 terms under the Texas Department of Commerce Act before that date,
16 or for any other purposes authorized by this chapter or the Act.

17 (h) The Texas Small Business Industrial Development
18 Corporation may not issue bonds for any purpose after September 1,
19 1987.

20 Section 489.202. INDUSTRIAL REVENUE BOND PROGRAM. (a) The
21 office shall review and approve the contents of any loan agreement
22 made in connection with Industrial Revenue Bonds issued under the
23 Act and shall prescribe rules and regulations setting forth minimum
24 standards for project eligibility and loan agreements.

25 (b) Industrial Development Corporations established under
26 the Act shall submit a transcript of proceedings in connection with
27 the issuance of the bonds to the office and request that the office

1 approve the bonds. On filing a request for the office's approval of
2 issuance of the bonds, the corporation shall pay to the office a
3 nonrefundable filing fee. The office shall set the amount of the
4 fee at a reasonable amount, but not less than \$500 or more than
5 \$25,000. If the office refuses to approve the bond issue solely on
6 the basis of law, the corporation may seek a writ of mandamus from
7 the Supreme Court, and for this purpose the executive head of the
8 office shall be considered a state officer as provided in Section
9 22.002, Government Code.

10 (c) No corporation shall sell or offer for sale any bonds or
11 other securities until a permit authorizing the corporation to
12 offer and sell such securities has been granted by the securities
13 commissioner under the registration provisions of The Securities
14 Act, as amended (Article 581-1 et seq., Vernon's Texas Civil
15 Statutes), except as the State Securities Board may exempt from
16 registration by rule, regulation, or order. Appeal from any
17 adverse decision of the securities commissioner or the State
18 Securities Board shall be as provided by the Administrative
19 Procedure and Texas Register Act, as amended (Chapter 2001,
20 Government Code). The substantial evidence rule shall apply in all
21 such appeals.

22 (d) The office by rule shall require corporations to file
23 fee schedules and bond procedures. Bond counsel and financial
24 advisors participating in an issue shall be mutually acceptable to
25 the corporation and the user.

26 Section 489.203. TEXAS LEVERAGE FUND. (a) Pursuant to the
27 provisions of Article III, Section 52-a, of the Texas Constitution

1 and the Development Corporation Act of 1979 (Article 5190.6
2 Vernon's Texas Civil Statutes), the office shall administer the
3 Texas Leverage Fund for the purpose of making loans secured by and
4 paid from economic development sales and use tax receipts to
5 certain local industrial development corporations to fund the cost
6 of eligible projects under the Act.

7 (b) The office shall review and approve the contents of any
8 lease, sale, or loan agreement made in connection with the Texas
9 Leverage Fund and shall prescribe rules and regulations setting
10 forth minimum standards for project eligibility and loan
11 agreements. In no event shall the office approve any agreement
12 unless it finds that the project sought to be financed is in
13 furtherance of the public purposes of the Act.

14 Section 489.204. CAPITAL ACCESS PROGRAM. (a) The office
15 shall administer the capital access program to assist a
16 participating financial institution in making loans to businesses
17 and nonprofit organizations that face barriers in accessing
18 capital.

19 (1) The office shall use money in the fund to make a
20 deposit in a participating financial institution's reserve account
21 in an amount specified by this chapter to be a source of money the
22 institution may receive as reimbursement for losses attributable to
23 loans in the program.

24 (2) The office shall determine the eligibility of a
25 financial institution to participate in the program and may set a
26 limit on the number of eligible financial institutions that may
27 participate in the program.

1 (3) To participate in the program, an eligible
2 financial institution must enter into a participation agreement
3 with the office that sets out the terms and conditions under which
4 the office will make contributions to the institution's reserve
5 account and specifies the criteria for a loan to qualify as a
6 capital access loan.

7 (b) To qualify as a capital access loan, a loan must:

8 (1) be made to a small or medium-sized business or to a
9 nonprofit organization;

10 (2) be used by the business or nonprofit organization
11 for any project, activity, or enterprise in this state that fosters
12 economic development; and

13 (3) meet any other criteria provided by this section.

14 (c) The office may provide by rule for criteria under which
15 a certain line of credit may be issued by an eligible financial
16 institution to a small or medium-sized business or nonprofit
17 organization qualifies to participate in the program; and may
18 authorize a consortium of financial institutions to participate in
19 the program subject to common underwriting guidelines.

20 (d) To qualify for participation in the program, a line of
21 credit must:

22 (1) be an account at a financial institution under
23 which the financial institution agrees to lend money to a person
24 from time to time to finance one or more projects, activities, or
25 enterprises that are authorized by this section; and

26 (2) contain the same restrictions, to the extent
27 possible, that are placed on a capital access loan that is not a

1 line of credit.

2 (e) Except as otherwise provided by this section, the office
3 may not determine the recipient, amount, or interest rate of a
4 capital access loan or the fees or other requirements related to the
5 loan.

6 (f) A loan is not eligible to be enrolled under this section
7 if the loan is for:

8 (1) construction or purchase of residential housing;

9 (2) simple real estate investments, excluding the
10 development or improvement of commercial real estate occupied by
11 the borrower's business or organization;

12 (3) inside bank transactions, as defined by the
13 office.

14 (g) The borrower of a capital access loan must apply the
15 loan to working capital or to the purchase, construction, or lease
16 of capital assets, including buildings and equipment used by the
17 business or non profit organization. Working capital uses include
18 the cost of exporting, accounts receivable, payroll, inventory, and
19 other financing needs of the business or organization.

20 (h) A capital access loan may be sold on the secondary
21 market under conditions as may be determined by the office.

22 (i) When enrolling a loan in the program, a participating
23 financial institution may specify an amount to be covered under the
24 program that is less than the total amount of the loan.

25 (j) Reserve Account. On approval by and after entering into
26 a participation agreement with the office, a participating
27 financial institution making a capital access loan shall establish

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

5 (1) When a participating financial institution makes a
6 loan enrolled in the program, the institution shall require the
7 borrower to pay to the institution a fee in an amount that is not
8 less than two percent but not more than three percent of the
9 principal amount of the loan, which the financial institution shall
10 deposit in the reserve account. The institution shall also deposit
11 in the reserve account an amount equal to the amount of the fee
12 received by the institution from the borrower under this
13 subsection. The institution may recover from the borrower all or
14 part of the amount the institution is required to pay under this
15 subsection in any manner agreed to by the institution and borrower.

16 (2) For each capital access loan made by a financial
17 institution, the institution shall certify to the office, within
18 the period prescribed by the office, that the institution has made a
19 capital access loan, the amount the institution has deposited in
20 the reserve account, including the amount of fees received from the
21 borrower, and, if applicable, that the borrower is located in or
22 financing a project, activity, or enterprise in an area designated
23 as an enterprise zone under Chapter 489, Subchapter C.

24 (3) On receipt of a certification made under
25 Subsection (j)(2) and subject to Subsection (k), the office shall
26 deposit in the institution's reserve account for each capital
27 access loan made by the institution:

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

3 (i) has assets of more than \$1 billion; or
4 (ii) has previously enrolled loans in the
5 program that in the aggregate are more than \$2 million;

6 (B) an amount equal to 150 percent of the total
7 amount deposited under Subsection (j)(1) for each loan if the
8 institution is not described by Subdivision (3)(A); or

9 (C) notwithstanding Subdivisions (3)(A) and
10 (3)(B), an amount equal to 200 percent of the total amount deposited
11 under Subsection (j)(1) for each loan if:

12 (i) the borrower is located in or financing
13 a project, activity, or enterprise in an area designated as an
14 enterprise zone under Subchapter C; or

15 (ii) the borrower is a small or medium-size
16 business or a nonprofit organization that operates or proposes to
17 operate a day-care center or a group day-care home, as those terms
18 are defined by Section 42.002, Human Resources Code.

19 (k) Limitations on State Contribution to Reserve Account.

20 (1) The amount deposited by the office into a participating
21 financial institution's reserve account for any single loan
22 recipient may not exceed \$150,000 during a three-year period.

23 (2) The maximum amount the office may deposit into a
24 reserve account for each capital access loan made under this
25 section is the lesser of \$35,000 or an amount equal to:

26 (A) eight percent of the loan amount if:

27 (i) the borrower is located in or financing

1 a project, activity, or enterprise in an area designated as an
2 enterprise zone under Subchapter C; or

3 (ii) the borrower is a small or medium-size
4 business or a nonprofit organization that operates or proposes to
5 operate a day-care center or a group day-care home, as those terms
6 are defined by Section 42.002, Human Resources Code; or

7 (B) six percent of the loan amount for any other
8 borrower.

9 (1) All of the money in a reserve account established under
10 this section is property of the state.

11 (1) The state is entitled to earn interest on the
12 amount of contributions made by the office, borrower, and
13 institution to a reserve account under this section. The office
14 shall withdraw monthly or quarterly from a reserve account the
15 amount of the interest earned by the state. The office shall
16 deposit the amount withdrawn under this subsection into the fund.

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

23 (3) The office shall withdraw from the institution's
24 reserve account the total amount in the account and any interest
25 earned on the account and deposit the amount in the fund when:

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

1 into under this section expires without renewal by the office or
2 institution;

3 (B) the financial institution has no outstanding
4 capital access loans; and

5 (C) the financial institution has not made a
6 capital access loan within the preceding 24 months.

7 (m) Annual Report. A participating financial institution
8 shall submit an annual report to the office. The report must:

9 (1) provide information regarding outstanding capital
10 access loans, capital access loan losses, and any other information
11 on capital access loans the office considers appropriate;

12 (2) state the total amount of loans for which the
13 office has made a contribution from the fund under this section;

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

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

18 Section 489.205. LINKED DEPOSIT PROGRAM. (a) A linked
19 deposit is a time deposit governed by a written deposit agreement
20 between the state and an eligible lending institution that
21 provides:

22 (1) that the eligible lending institution pay interest
23 on the deposit at a rate that is not less than the greater of:

24 (A) the current market rate of a United States
25 treasury bill or note of comparable maturity minus two percent; or

26 (B) 1.5 percent; and

27 (2) that the eligible lending institution agree to

1 lend the value of the deposit to an eligible borrower at a maximum
2 rate that is the current market rate of a United States treasury
3 bill or note of comparable maturity plus four percent.

4 (b) The office shall administer a linked deposit program to
5 encourage commercial lending for the development of:

6 (1) small businesses in enterprise zones;

7 (2) historically underutilized businesses;

8 (3) child-care services provided by and activities
9 engaged in this state by nonprofit organizations; and

10 (4) quality, affordable child-care services in this
11 state.

12 (c) Applications:

13 (1) In order to participate in the linked deposit
14 program, an eligible lending institution may solicit loan
15 applications from eligible borrowers.

16 (2) After reviewing an application and determining
17 that the applicant is an eligible borrower and is creditworthy, the
18 eligible lending institution shall send the application for a
19 linked deposit loan to the office.

20 (3) The eligible lending institution shall certify the
21 interest rate applicable to the specific eligible borrower and
22 attach it to the application sent to the office.

23 (4) After reviewing each linked deposit loan
24 application, the office shall approve or deny the application.

25 (c) After the office's acceptance of the application and the
26 lending institution originates a loan to an eligible borrower, the
27 office shall place a linked deposit with the applicable eligible

1 lending institution for the period of the loan, subject to
2 subsections (d) and (e). The office is not required to maintain the
3 deposit with the lending institution if the loan is extended,
4 renewed, or renegotiated unless the office accepts a new linked
5 deposit loan application under this section for the loan as
6 modified. Subject to the limitation described by Section
7 489.205(h), the comptroller shall place a time deposit at the
8 direction of the office at an interest rate described by Subsection
9 (a) and may modify the interest rate during the period of the loan,
10 notwithstanding any order of the State Depository Board to the
11 contrary.

12 (d) Before the placing of a linked deposit, the eligible
13 lending institution and the state, represented by the office, shall
14 enter into a written deposit agreement containing the conditions on
15 which the linked deposit is made. The deposit agreement must
16 provide that:

17 (1) the comptroller shall place the time deposit
18 within ten business days;

19 (2) the lending institution shall notify the office if
20 the borrower to which the deposit is linked defaults on the loan;
21 and

22 (3) in the event of a default, the comptroller shall
23 withdraw the linked deposit at the direction of the office.

24 (e) If a lending institution holding linked deposits ceases
25 to be a state depository, the comptroller may withdraw the linked
26 deposits at the direction of the office.

27 (f) On acceptance of its application to receive linked

1 deposits, an eligible lending institution shall loan money to an
2 eligible borrower in accordance with the deposit agreement and this
3 section. The eligible lending institution shall forward a
4 compliance report to the office.

5 (g) The state is not liable to an eligible lending
6 institution for payment of the principal, interest, or any late
7 charges on a loan made to an eligible borrower. Linked deposits are
8 not an extension of the state's credit within the meaning of any
9 state constitutional prohibition.

10 (h) The maximum amount of a loan under the linked deposit
11 program is \$250,000.

12 (i) The borrower shall apply a loan granted under this
13 subchapter to working capital or to the purchase, construction, or
14 lease of capital assets, including land, buildings, and equipment.

15 Section 489.206. SMALL BUSINESS INCUBATOR FUND. (a) The
16 Texas small business incubator fund is a revolving fund in the bank.

17 (b) The small business fund is composed of proceeds of bonds
18 issued under this chapter, financing application fees, loan
19 repayments, guarantee fees, royalty receipts, dividend income,
20 money appropriated by the legislature for authorized purposes of
21 the small business fund, amounts received by the state from loans,
22 loan guarantees, and equity investments made under this chapter,
23 amounts received by the state from federal grants or other sources,
24 and any other amounts received under this chapter and required by
25 the office to be deposited in the small business fund. The small
26 business fund contains a project account, an interest and sinking
27 account, and other accounts that the office authorizes to be

1 created and maintained. Money in the small business fund is
2 available for use by the office under this chapter.
3 Notwithstanding any other provision of this chapter, any money in
4 the small business fund may be used for debt service.

5 (c) Money in the project account of the small business fund,
6 minus the costs of issuance of bonds under this chapter and
7 necessary costs of administering the small business fund, may be
8 used to provide financing to foster and stimulate the development
9 of small businesses in this state. The office shall provide
10 financing from the small business fund on the terms and conditions
11 that the office determines to be reasonable, appropriate, and
12 consistent with the purposes and objectives of the small business
13 fund and this chapter, for the purpose of fostering and stimulating
14 the development of new or existing small businesses in this state.

15 SUBCHAPTER C. ENTERPRISE ZONES.

16 Section 489.301. SHORT TITLE. This subchapter may be cited
17 as the Texas Enterprise Zone Act.

18 Section 489.302. PURPOSES. The purposes of this subchapter
19 are to establish a process that clearly identifies severely
20 distressed areas of the state and provides incentives by state and
21 local government to induce private investment in those areas by
22 removing unnecessary governmental regulatory barriers to economic
23 growth and to provide tax incentives and economic development
24 program benefits.

25 Section 489.303. JURISDICTION OF MUNICIPALITY. For the
26 purposes of this subchapter, territory in the extraterritorial
27 jurisdiction of a municipality is considered to be in the

1 jurisdiction of the municipality.

2 Section 489.304. ASSISTANCE. (a) The office shall assist:

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

5 (2) a unit of local government in obtaining status as a
6 federal enterprise zone;

7 (3) the governing body of an enterprise zone in
8 obtaining assistance from another state agency, including training
9 and technical assistance to qualified businesses in a zone; and

10 (4) the governing body of an enterprise zone in
11 developing small business incubators.

12 (b) The office shall provide to persons desiring to locate
13 and engage in business in an enterprise zone information and
14 appropriate assistance relating to the required legal
15 authorization, including a state license, permit, certificate,
16 approval, registration, or charter, to engage in business in this
17 state.

18 (c) The office shall publicize existing tax incentives and
19 economic development programs in enterprise zones.

20 (d) On request the office shall offer to a unit of local
21 government having an enterprise zone within its jurisdiction
22 technical assistance relating to tax abatement and the development
23 of alternative revenue sources.

24 Section 489.305. COORDINATION WITH OTHER GOVERNMENTAL
25 ENTITIES. (a) In cooperation with the appropriate units of local
26 government and other state agencies, the office shall coordinate
27 and streamline state business assistance programs and permit or

1 license application procedures for businesses in enterprise zones.

2 (b) The office shall:

3 (1) work with the responsible state and federal
4 agencies to coordinate enterprise zone programs with other programs
5 carried out in an enterprise zone, including housing, community and
6 economic development, small business, banking, financial
7 assistance, transportation, and employment training programs;

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

11 (3) work, when possible, for the consolidation of
12 periodic reports required under those programs into one summary
13 report.

14 (c) The office shall encourage other state agencies in
15 awarding grants, loans, or services to give priority to businesses
16 in enterprise zones.

17 Section 489.306. CRITERIA FOR ENTERPRISE ZONE DESIGNATION.

18 (a) To be designated as an enterprise zone an area must:

19 (1) have a continuous boundary;

20 (2) be at least one square mile but not larger than the
21 greater of:

22 (A) 10 square miles, excluding lakes, waterways,
23 and transportation arteries; or

24 (B) an area, not to exceed 20 square miles, that
25 is equal to five percent of the area, excluding lakes, waterways,
26 and transportation arteries, of the municipality, county, or
27 combination of municipalities or counties nominating the area as an

1 enterprise zone;

2 (3) be an area of pervasive poverty, unemployment, and
3 economic distress; and

4 (4) be nominated as an enterprise zone by an ordinance
5 or order adopted by the nominating body.

6 (b) The office may not designate an area as an enterprise
7 zone if three enterprise zones are located in the jurisdiction of
8 and were nominated as enterprise zones by the governing body of the
9 municipality or county nominating the area as an enterprise zone.

10 Section 489.307. AREA OF PERVASIVE POVERTY, UNEMPLOYMENT,
11 AND ECONOMIC DISTRESS. (a) An area is an area of pervasive
12 poverty, unemployment, and economic distress for the purposes of
13 Section 489.306 if:

14 (1) the average rate of unemployment in the area
15 during the most recent 12-month period for which data are available
16 was at least one and one-half times the state average for that
17 period; or

18 (2) the area had a population loss of at least 12
19 percent during the most recent six-year period or at least four
20 percent during the most recent three-year period; and

21 (A) the area is a low-income poverty area;

22 (B) the area is in a jurisdiction or pocket of
23 poverty eligible for urban development action grants under federal
24 law, according to the most recent certification available from the
25 United States Department of Housing and Urban Development;

26 (C) at least 70 percent of the residents or
27 households of the area have an income that is less than 80 percent

1 of the median income of the residents or households of the locality
2 or state, whichever is less; or

3 (D) the nominating body establishes to the
4 satisfaction of the office that:

5 (i) chronic abandonment or demolition of
6 commercial or residential structures exists in the area;

7 (ii) substantial tax arrearages for
8 commercial or residential structures exist in the area;

9 (iii) substantial losses of businesses or
10 jobs have occurred in the area;

11 (iv) the area is part of a disaster area
12 declared by the state or federal government during the preceding 18
13 months; or

14 (v) the area has had a substantial increase
15 in the number of individuals younger than 18 years of age arrested
16 due to criminal activity.

17 (b) Labor force and population data are considered current
18 if:

19 (1) they are the most recently published estimates; or

20 (2) the enterprise zone application containing the
21 data is received by the office before the 61st day after the date
22 revised estimates of that data are published.

23 (c) For purposes of determining the average rate of
24 unemployment in the area under Subsection (a)(1), individuals who
25 are employed by a business and whose principal place of employment
26 is on property for which the business has received a certificate of
27 completion under Section 361.609, Health and Safety Code, are not

1 considered.

2 Section 489.308. NOMINATION OF ENTERPRISE ZONE. (a) The
3 governing body of a municipality or county, individually or in
4 combination with other municipalities or counties, by ordinance or
5 order, as appropriate, may nominate as an enterprise zone an area
6 within its jurisdiction that meets the criteria under Section
7 489.306.

8 (b) Unless the nominating body holds a public hearing before
9 adopting an ordinance or order under this section, the ordinance or
10 order is not valid.

11 (c) The governing body of a county may not nominate
12 territory in a municipality, including extraterritorial
13 jurisdiction of a municipality, to be included in a proposed
14 enterprise zone unless the governing body of the municipality also
15 nominates the territory and together with the county files a joint
16 application under Section 489.310.

17 (d) The governing bodies of a combination of municipalities
18 or counties may not jointly nominate an area as an enterprise zone
19 unless the governing bodies have entered into a binding agreement
20 to administer the zone jointly.

21 (e) Notwithstanding Subsections (c) and (d), the governing
22 body of a county with a population of 1.3 million or more may
23 nominate territory in that county that is in the extraterritorial
24 jurisdiction of a municipality to be included in one or more of the
25 county's enterprise zones and the county shall administer a zone
26 that is established as the result of the nomination.

27 Section 489.309. NOMINATING ORDINANCE OR ORDER. (a) An

1 ordinance or order nominating an area as an enterprise zone must:

2 (1) describe precisely the area to be included in the
3 zone by a legal description or reference to roadways, lakes,
4 waterways, or municipal or county boundaries;

5 (2) state a finding that the area meets the
6 requirements of this chapter;

7 (3) summarize briefly the incentives, including tax
8 incentives, that, at the election of the nominating body, apply to
9 business enterprises in the area; and

10 (4) nominate the area as an enterprise zone.

11 (b) At least one of the incentives summarized under
12 Subsection (a)(3) must not apply throughout the governmental entity
13 or entities nominating the area as an enterprise zone.

14 (c) This section does not prohibit a municipality or county
15 from extending additional incentives, including tax incentives,
16 for business enterprises in an enterprise zone by a separate
17 ordinance or order.

18 Section 489.310. APPLICATION FOR DESIGNATION. (a) For an
19 area to be designated as an enterprise zone, the nominating body,
20 after nominating the area as an enterprise zone, must send to the
21 office a written application for designation of the area as an
22 enterprise zone.

23 (b) The application must include:

24 (1) a certified copy of the ordinance or order, as
25 appropriate, nominating the area as an enterprise zone;

26 (2) a map of the area showing existing streets and
27 highways;

1 (3) an analysis and appropriate supporting documents
2 and statistics demonstrating that the area qualifies for
3 designation as an enterprise zone;

4 (4) a statement that specifies each tax incentive,
5 grant, other financial incentive or benefit, or program to be
6 provided by the nominating body to business enterprises in the area
7 that is not to be provided throughout the governmental entity or
8 entities nominating the area as an enterprise zone;

9 (5) a statement of the economic development and
10 planning objectives for the area;

11 (6) a description of the functions, programs, and
12 services to be performed by a neighborhood enterprise association
13 in the area;

14 (7) an estimate of the economic impact of the
15 designation of the area as an enterprise zone on the revenues of the
16 governmental entity or entities nominating the area as an
17 enterprise zone, considering all the financial incentives and
18 benefits and the programs contemplated;

19 (8) a transcript or tape recording of all public
20 hearings on the proposed zone;

21 (9) if the application is a joint application, a
22 description and copy of the agreement between the applicants;

23 (10) the procedures for negotiating with residents,
24 community groups, and other entities affected by the designation of
25 the area as an enterprise zone and with qualified businesses in the
26 area;

27 (11) a description of the administrative authority, if

1 one is to be appointed for the enterprise zone under Section
2 489.319; and

3 (12) any additional information the office requires.

4 (c) Information required by Subsection (b) is for
5 evaluation purposes only.

6 Section 489.311. REVIEW OF APPLICATION. (a) On receipt of
7 an application for the designation of an enterprise zone the office
8 shall review the application to determine if the nominated area
9 qualifies for designation as an enterprise zone under this chapter.

10 (b) The office shall allow an applicant to correct any
11 omission or clerical error in the application and to return the
12 application to the office on or before the 10th day after the day on
13 which the office receives the application.

14 Section 489.312. DESIGNATION AGREEMENT. (a) If the office
15 determines that a nominated area for which a designation
16 application has been received satisfies the criteria under Section
17 489.306, the office shall negotiate with the nominating body for a
18 designation agreement.

19 (b) A designation agreement must:

20 (1) designate the nominated area as an enterprise
21 zone; and

22 (2) designate the administrative authority, if one is
23 to be appointed for the zone under Section 489.319, and describe its
24 functions and duties, which should include decision-making
25 authority and the authority to negotiate with affected entities.

26 (c) The office shall complete the negotiations and sign the
27 agreement not later than the 60th day after the day on which the

1 application is received unless the office extends that period to
2 the 90th day after the day on which the application was received.

3 (d) If an agreement is not completed within the 60-day
4 period provided by Subsection (c), the office shall provide to the
5 nominating body the specific areas of concern and a final proposal
6 for the agreement.

7 (e) If the agreement is not executed before the 91st day
8 after the day on which the application was received, the
9 application is considered to be denied.

10 Section 489.313. DENIAL OF APPLICATION; NOTICE. (a) The
11 office may deny an application for the designation of an enterprise
12 zone only if the office determines that the nominated area does not
13 satisfy the criteria under Section 489.306.

14 (b) The office shall inform the nominating body of the
15 specific reasons for denial of an application, including denial
16 under Section 489.312(e).

17 Section 489.314. PERIOD OF DESIGNATION. (a) An area may be
18 designated as an enterprise zone for a maximum of seven years. A
19 designation remains in effect until September 1 of the final year of
20 the designation.

21 (b) Notwithstanding Subsection (a), an area designated as a
22 federal enterprise zone, federal empowerment zone, or federal
23 enterprise community may be designated as an enterprise zone
24 without further qualification for longer than seven years but not
25 longer than the period permitted by federal law.

26 Section 489.315. AMENDING BOUNDARIES. (a) The nominating
27 body may amend the boundary of an enterprise zone by ordinance or

1 order, as appropriate, adopted after a public hearing on the issue.

2 (b) The amended boundary:

3 (1) must be continuous;

4 (2) may not exceed the original size requirement of
5 Section 489.306; and

6 (3) may not exclude any area originally included
7 within the boundary of the zone as designated.

8 (c) The entire enterprise zone with the amended boundary
9 must continue to meet the unemployment and economic distress
10 requirements of Section 489.306.

11 (d) A nominating body may not make more than one boundary
12 amendment annually for an enterprise zone.

13 (e) For each amendment of an enterprise zone boundary, the
14 nominating body shall pay the office a reasonable fee, in an amount
15 specified by the office, not to exceed \$500. The office may use
16 fees collected under this subsection to administer this chapter and
17 for other purposes to advance this chapter.

18 Section 489.316. REMOVAL OF DESIGNATION. (a) The office
19 may remove the designation of an area as an enterprise zone if:

20 (1) the area no longer meets the criteria for
21 designation under this chapter or by rule adopted under this
22 chapter; or

23 (2) the office determines that the governing body of
24 the enterprise zone has not complied with commitments made in the
25 ordinance or order nominating the area as an enterprise zone.

26 (b) The removal of a designation does not affect the
27 validity of:

1 (1) a tax incentive or regulatory relief granted or
2 accrued before the removal; or

3 (2) bonds issued under this chapter.

4 Section 489.317. EXCEPTION TO LIMIT ON DESIGNATION.
5 Designation as an enterprise zone under this subchapter of an area
6 designated as a federal enterprise zone, federal empowerment zone,
7 or federal enterprise community located in a municipality or county
8 does not reduce the number of enterprise zones that the
9 municipality or county may have designated under this subchapter.

10 Section 489.318. ADMINISTRATION BY GOVERNING BODY. The
11 governing body of an enterprise zone is the governing body of the
12 municipality or county, or the governing bodies of the combination
13 of municipalities or counties, that applied to have the area
14 designated as an enterprise zone.

15 Section 489.319. ADMINISTRATION BY ADMINISTRATIVE
16 AUTHORITY. (a) The governing body of an enterprise zone may
17 delegate its administrative duties to an administrative authority
18 appointed by the governing body.

19 (b) An administrative authority must:

20 (1) be composed of 3, 5, 7, 9, 11, or 15 members;

21 (2) be a viable and responsive body generally
22 representative of all public or private entities that have a stake
23 in the development of the zone; and

24 (3) include enterprise zone residents and
25 representatives of the governing body of the zone and of local
26 businesses

27 Section 489.320. PARTICIPATION BY NEIGHBORHOOD ENTERPRISE

1 ASSOCIATIONS. Each neighborhood enterprise association organized
2 under Section 489.323 should:

3 (1) actively participate in the administration of the
4 enterprise zone for which the association was organized; and

5 (2) be encouraged to participate in planning and
6 carrying out activities in the enterprise zone.

7 Section 489.321. LIAISON. The governing body of an
8 enterprise zone shall designate a liaison to communicate and
9 negotiate with:

10 (1) the office;

11 (2) the administrative authority, if one exists;

12 (3) an enterprise project; and

13 (4) other entities in or affected by the enterprise
14 zone.

15 Section 489.322. ANNUAL REPORT. (a) Not later than October
16 1 of each year, the governing body of an enterprise zone shall
17 submit to the office a report in the form required by the office.

18 (b) The report must be approved by the enterprise zone's
19 administrative authority, if one exists.

20 (c) The report must include for the year preceding the date
21 of the report:

22 (1) a list of local incentives for community
23 development available in the zone;

24 (2) the use of local incentives for which the
25 governing body provided in the ordinance or order nominating the
26 enterprise zone and the effect of those incentives on revenue;

27 (3) the number of businesses assisted, located, and

1 retained in the zone since its designation due to the existence of
2 the enterprise zone;

3 (4) a summary of all industrial revenue bonds issued
4 to finance projects located in the zone; and

5 (5) a description of all efforts made to attain
6 revitalization goals for the zone.

7 Section 489.323. ORGANIZATION OF NEIGHBORHOOD ENTERPRISE
8 ASSOCIATION. (a) Individuals residing in an enterprise zone may
9 organize a neighborhood enterprise association.

10 (b) Only one association may exist for a geographic
11 neighborhood area.

12 (c) The association must:

13 (1) be a nonprofit corporation organized under the
14 Texas Non-Profit Corporation Act (Article 1396-1.01 et seq.,
15 Vernon's Texas Civil Statutes); and

16 (2) be eligible for federal tax exemption under
17 Section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C.
18 Section 501(c)).

19 (d) The articles of incorporation must:

20 (1) describe the geographic neighborhood area of the
21 association; and

22 (2) authorize the association to engage in business
23 only in the enterprise zone in which the neighborhood area is
24 located.

25 (e) The incorporators shall publish in a newspaper of
26 general circulation in the governmental entity or entities that
27 applied to have the area designated as an enterprise zone an

1 explanation of the proposed association and the incorporators'
2 rights in the association.

3 (f) A copy of the association's articles of incorporation
4 and bylaws shall be available for public inspection at:

5 (1) the office of the city manager or comparable
6 municipal officer if the entity is a municipality; or

7 (2) the county judge's office if the entity is a
8 county.

9 Section 489.324. CERTIFICATION OF ASSOCIATION. (a) After
10 a neighborhood enterprise association is organized, the
11 association's board of directors must apply to the governing body
12 of the enterprise zone or to the office for certification as a
13 neighborhood enterprise association.

14 (b) The governing body of the enterprise zone or the office
15 may not grant certification unless the association has hired or
16 appointed a suitable chief executive officer.

17 Section 489.325. MEMBERSHIP; VOTING. (a) The membership
18 of a neighborhood enterprise association may be composed only of
19 residents of the enterprise zone.

20 (b) An individual is entitled to be a member of a
21 neighborhood enterprise association if the individual is:

22 (1) a resident of the association's geographic
23 neighborhood area; and

24 (2) of voting age.

25 (c) To be entitled to vote, a member of the association must
26 have been a resident of the association's neighborhood area for at
27 least one year.

1 Section 489.326. POWERS OF NEIGHBORHOOD ENTERPRISE
2 ASSOCIATIONS. (a) A neighborhood enterprise association may
3 purchase or lease publicly or privately owned real property.

4 (b) A neighborhood enterprise association with the approval
5 of and in coordination with the responsible state or local
6 governmental entity may:

7 (1) establish crime watch patrols in the association's
8 geographic neighborhood area;

9 (2) establish volunteer day-care centers;

10 (3) organize recreational activities for the
11 association's geographic neighborhood area youth;

12 (4) provide garbage collection;

13 (5) maintain and improve streets, bridges, and water
14 and sewer lines;

15 (6) provide energy or water conservation projects;

16 (7) provide health and clinic services;

17 (8) provide drug abuse programs;

18 (9) provide senior citizen assistance programs;

19 (10) maintain parks;

20 (11) rehabilitate, renovate, operate, or maintain low
21 or moderate income housing; and

22 (12) provide other types of public services as
23 authorized by law or rule.

24 (c) A service may be provided under Subsection (b) by the
25 association or, if feasible and prudent and after agreement with
26 the appropriate state or local governmental entity, by a private
27 firm or organization.

1 (d) The governmental entity responsible for providing a
2 service may contract with a neighborhood enterprise association to
3 provide services in an amount equal to the amount saved by the
4 entity by the provision of the service under the contract.

5 (e) A neighborhood enterprise association has powers
6 established by other law or rule, including powers available to
7 similar corporations under state law.

8 (f) A neighborhood enterprise association may enter into a
9 contract and participate in a joint venture with the state or a
10 state agency or institution.

11 (g) A neighborhood enterprise association may receive money
12 without approval of the governing body of the enterprise zone.

13 Section 489.327. APPROVED PROJECTS. (a) On approval of the
14 governing body of an enterprise zone, a neighborhood enterprise
15 association may carry out projects other than those under Section
16 489.326(b). The association must submit to the governing body an
17 application that describes the nature and benefit of the project
18 and that specifically states:

19 (1) how the project will contribute to the self-help
20 efforts of the residents of the association's geographic
21 neighborhood area;

22 (2) how the residents of the geographic neighborhood
23 area will be involved in the planning and implementation of the
24 project;

25 (3) whether there are sufficient resources to complete
26 the project and whether the association will be fiscally
27 responsible for the project; and

1 (4) whether the project will enhance the enterprise
2 zone by:

3 (A) creating permanent jobs;

4 (B) physically improving the housing stock;

5 (C) stimulating neighborhood business activity;

6 or

7 (D) preventing crime.

8 (b) If the governing body of an enterprise zone does not
9 disapprove an application submitted under Subsection (a) before the
10 45th day after the day of receipt of the application, the
11 application is considered to be approved.

12 (c) If the governing body of an enterprise zone disapproves
13 an application submitted under Subsection (a), the governing body
14 shall notify the association of the specific reasons for the
15 decision and shall allow the association to amend the application
16 on or before the 60th day after the date of the notification.

17 (d) The association shall furnish to the governing body of
18 the enterprise zone:

19 (1) an annual statement of the programmatic and
20 financial status of each approved project; and

21 (2) an audited financial statement of the project.

22 Section 489.328. QUALIFIED BUSINESS. (a) A person is a
23 qualified business if the office, for the purpose of state benefits
24 under this chapter, or the governing body of an enterprise zone, for
25 the purpose of local benefits, certifies that:

26 (1) the person is engaged in or has provided
27 substantial commitment to initiate the active conduct of a trade or

1 business in the enterprise zone; and

2 (2) at least 25 percent of the person's new employees
3 in the enterprise zone are:

4 (A) residents of any enterprise zone in the
5 jurisdiction of the governing body of the enterprise zone; or

6 (B) economically disadvantaged individuals.

7 (b) The governing body of an enterprise zone may certify a
8 franchise or subsidiary of a new or existing business as a qualified
9 business if the franchise or subsidiary:

10 (1) is located entirely in the enterprise zone; and

11 (2) maintains separate books and records of the
12 business activity conducted in the zone.

13 (c) For the purposes of this section, an economically
14 disadvantaged individual is an individual who:

15 (1) was unemployed for at least three months before
16 obtaining employment with the qualified business;

17 (2) receives public assistance benefits, including
18 welfare payments or food stamps, based on need and intended to
19 alleviate poverty;

20 (3) is an economically disadvantaged individual, as
21 defined by Section 4(8), Job Training Partnership Act (29 U.S.C.
22 Section 1503(8));

23 (4) is an individual with handicaps, as defined by 29
24 U.S.C. Section 706(8);

25 (5) is an inmate, as defined by Section 498.001;

26 (6) is entering the workplace after being confined in
27 a facility operated by the institutional division of the Texas

1 Department of Criminal Justice or under contract with the Texas
2 Department of Criminal Justice;

3 (7) has been released by the Texas Youth Commission
4 and is on parole, if state law provides for such a person to be on
5 parole; or

6 (8) meets the current low income or moderate income
7 limits developed under Section 8, United States Housing Act of 1937
8 (42 U.S.C. Section 1437f et seq.).

9 Section 489.329. PROHIBITION ON QUALIFIED BUSINESS
10 CERTIFICATION. If the office determines that the governing body of
11 an enterprise zone is not complying with this subchapter, the
12 office shall prohibit the certification of a qualified business in
13 the zone until the office determines that the governing body is
14 complying with this subchapter. The office may not designate more
15 than 85 businesses as enterprise projects during any biennium.

16 Section 489.330. REQUEST FOR APPLICATION FOR ENTERPRISE
17 PROJECT DESIGNATION. (a) A qualified business in an enterprise
18 zone described by Subsection (b) may request that the governing
19 body of the enterprise zone apply to the office for designation of
20 the business as an enterprise project. The request must also be made
21 to the enterprise zone's administrative authority, if one exists.

22 (b) A request may be made under this section only to the
23 governing body of an enterprise zone that has:

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

26 (2) a population loss of at least:

27 (A) 12 percent during the most recent six-year

1 period; or

2 (B) four percent during the most recent
3 three-year period.

4 Section 489.331. APPLICATION FOR ENTERPRISE PROJECT
5 DESIGNATION. (a) If the governing body of an enterprise zone or the
6 governing body and administrative authority of an enterprise zone,
7 as appropriate, approve a request made under Section 489.330, the
8 governing body may apply to the office for the designation of the
9 qualified business as an enterprise project.

10 (b) An application must:

11 (1) describe completely the conditions in the
12 enterprise zone that constitute pervasive poverty, unemployment,
13 and economic distress for purposes of Section 489.306;

14 (2) describe the procedures and efforts of the
15 governmental entity or entities that applied to have the area
16 designated as an enterprise zone to facilitate and encourage
17 participation by and negotiation among all affected entities in
18 the zone in which the qualified business is located;

19 (3) contain an economic analysis of the plans of the
20 qualified business for expansion, revitalization, or other
21 activity in the enterprise zone, including:

22 (A) the number of anticipated new permanent jobs
23 the business will create;

24 (B) the anticipated number of permanent jobs the
25 business will retain;

26 (C) the amount of investment to be made in the
27 zone; and

1 (D) other information the office requires; and
2 (4) describe the local effort made by the governmental
3 entity or entities that applied to have the area designated as an
4 enterprise zone, the administrative authority, if one exists, the
5 qualified business, and other affected entities to develop and
6 revitalize the zone.

7 (c) For the purposes of this section, local effort to
8 develop and revitalize an enterprise zone is:

9 (1) the willingness of public entities in the zone to
10 provide services, incentives, and regulatory relief authorized by
11 this chapter and to negotiate with the qualified business for which
12 application is made and with neighborhood enterprise associations
13 and other local groups or businesses to achieve the public purposes
14 of this chapter; and

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

17 (d) Factors to be considered in evaluating the local effort
18 of a public entity include:

19 (1) tax abatement, deferral, refunds, or other tax
20 incentives;

21 (2) regulatory relief, including:

22 (A) zoning changes or variances;

23 (B) exemptions from unnecessary building code
24 requirements, impact fees, or inspection fees; and

25 (C) streamlined permitting;

26 (3) enhanced municipal services, including:

27 (A) improved police and fire protection;

- 1 (B) institution of community crime prevention
2 programs; and
- 3 (C) special public transportation routes or
4 reduced fares;
- 5 (4) improvements in community facilities, including:
- 6 (A) capital improvements in water and sewer
7 facilities;
- 8 (B) road repair; and
- 9 (C) creation or improvement of parks;
- 10 (5) improvements to housing, including:
- 11 (A) low-interest loans for housing
12 rehabilitation, improvement, or new construction; and
- 13 (B) transfer of abandoned housing to individuals
14 or community groups;
- 15 (6) business and industrial development services,
16 including:
- 17 (A) low-interest loans for business;
- 18 (B) use of surplus school buildings or other
19 underutilized publicly owned facilities as small business
20 incubators;
- 21 (C) provision of publicly owned land for
22 development purposes, including residential, commercial, or
23 industrial development;
- 24 (D) creation of special one-stop permitting and
25 problem resolution centers or ombudsmen; and
- 26 (E) promotion and marketing services; and
- 27 (7) job training and employment services, including:

1 (A) retraining programs;

2 (B) literacy and employment skills programs;

3 (C) vocational education; and

4 (D) customized job training.

5 (e) Factors to be considered in evaluating the local effort
6 of a private entity include:

7 (1) the willingness to negotiate or cooperate in the
8 achievement of the purposes of this chapter;

9 (2) commitments to hire underskilled, inexperienced,
10 disadvantaged, or displaced workers who reside in the enterprise
11 zone;

12 (3) commitments to hire minority workers and to
13 contract with minority-owned businesses;

14 (4) provision of technical and vocational job training
15 for enterprise zone residents or economically disadvantaged
16 employees;

17 (5) provision of child care for employees;

18 (6) commitments to implement and contribute to a
19 tutoring or mentoring program for area students;

20 (7) prevention or reduction of juvenile crime
21 activity; and

22 (8) the willingness to make contributions to the
23 well-being of the community, such as job training, or the donation
24 of land for parks or other public purposes.

25 Section 489.332. ENTERPRISE PROJECT DESIGNATION. (a) The
26 office may designate a business as an enterprise project only if the
27 office determines that:

1 (1) the business is a qualified business under Section
2 489.328 that is located in or has made a substantial commitment to
3 locate in an enterprise zone described by Section 489.330(b);

4 (2) the governing body of the enterprise 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;

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; and

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

12 (A) the permanent employees of the business will
13 be permanently laid off;

14 (B) the business will close down permanently;

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

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

18 (E) a 10 percent decrease in overall cost per
19 unit produced will occur; or

20 (F) the business facility has been legitimately
21 destroyed or impaired because of fire, flood, tornado, hurricane,
22 or any other natural disaster.

23 (b) The office shall designate qualified businesses as
24 enterprise projects on a competitive basis. The office shall
25 establish a minimum scoring threshold that must be met by the
26 qualified business applying for a project designation and make its
27 designation decisions using a weighted scale in which:

1 (1) 50 percent of the evaluation depends on the
2 economic distress of:

3 (A) the enterprise zone in which a proposed
4 enterprise project is located; and

5 (B) the area within the enterprise zone where the
6 project is located;

7 (2) 25 percent of the evaluation depends on the local
8 effort to achieve development and revitalization of the enterprise
9 zone; and

10 (3) 25 percent of the evaluation depends on the
11 evaluation criteria as determined by the office, which must
12 include:

13 (A) the level of cooperation and support the
14 project applicant commits to the revitalization goals of the zone;
15 and

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

18 (c) The office may remove an enterprise project designation
19 if it determines that the business is not complying with a
20 requirement for its designation.

21 (d) The maximum number of qualified businesses that the
22 office may designate as enterprise projects for each nominating
23 body during any biennium is:

24 (1) four, plus two additional bonus projects the
25 office may award in a municipality or county with a population of
26 less than 250,000; or

27 (2) six, if the governing body of the enterprise zone

1 is the governing body of a municipality or county with a population
2 of 250,000 or more.

3 Section 489.333. ALLOCATION OF JOBS ELIGIBLE FOR TAX
4 REFUND. (a) When the office designates a business as an enterprise
5 project, the office shall allocate to the project the maximum
6 number of new permanent jobs or retained jobs eligible to be
7 included in a computation of a tax refund for the project.

8 (b) Until September 1, 2005, the maximum number of new
9 permanent jobs or retained jobs may not exceed 250, or a number
10 equal to 110 percent of the number of anticipated new permanent jobs
11 or retained jobs specified in the application for designation of
12 the business as an enterprise project under Section 489.331,
13 whichever is less.

14 (c) Effective September 1, 2005, the maximum number of new
15 permanent jobs or retained jobs may not exceed 625, or a number
16 equal to 110 percent of the number of anticipated new permanent jobs
17 or retained jobs specified in the application for designation of
18 the business as an enterprise project under Section 489.331,
19 whichever is less.

20 Section 489.334. DURATION OF CERTAIN DESIGNATIONS. The
21 office's designation of a qualified business as an enterprise
22 project is effective until the fifth anniversary of the date on
23 which the designation is made regardless of whether the enterprise
24 zone in which the project is located expires before the fifth
25 anniversary of the project.

26 Section 489.335. EXEMPTIONS FROM STATE REGULATION;
27 SUSPENSION OF LOCAL REGULATION. (a) A state agency may exempt from

1 its regulation a qualified business, qualified employee, qualified
2 property, or neighborhood enterprise association in an enterprise
3 zone if the exemption is consistent with:

4 (1) the purposes of this subchapter; and

5 (2) the protection and promotion of the general health
6 and welfare.

7 (b) A local government may suspend local regulation,
8 including an ordinance, rule, or standard, relating to zoning,
9 licensing, or building codes in an enterprise zone.

10 (c) An exemption from or suspension of regulation under this
11 section must be adopted in the same manner that the regulation was
12 adopted.

13 (d) The authorization provided by Subsection (a) or (b) does
14 not apply to regulation:

15 (1) that relates to:

16 (A) civil rights;

17 (B) equal employment;

18 (C) equal opportunity;

19 (D) fair housing rights; or

20 (E) preservation of historical sites or
21 historical artifacts;

22 (2) the relaxation of which is likely to harm the
23 public safety or public health, including environmental health; or

24 (3) that is specifically imposed by law.

25 (e) For the purposes of this section, property is classified
26 as qualified property if the property is:

27 (1) tangible personal property located in the

1 enterprise zone that was:

2 (A) acquired by a taxpayer not earlier than the
3 90th day before the date on which the area was designated as an
4 enterprise zone; and

5 (B) used predominantly by the taxpayer in the
6 active conduct of a trade or business;

7 (2) real property located in the enterprise zone that
8 was:

9 (A) acquired by a taxpayer not earlier than the
10 90th day before the date on which the area was designated as an
11 enterprise zone and was used predominantly by the taxpayer in the
12 active conduct of a trade or business; or

13 (B) the principal residence of the taxpayer on
14 the date of the sale or exchange; or

15 (3) an interest in an entity that was certified as a
16 qualified business under Section 2303.402 for the entity's most
17 recent tax year ending before the date of the sale or exchange.

18 Section 489.336. REVIEW OF STATE AGENCY RULES; REPORT. (a)
19 A state agency rule adopted after September 1, 1987, may provide,
20 when applicable, encouragements and incentives to increase:

21 (1) the renovation, improvement, or new construction
22 of housing in enterprise zones; and

23 (2) the economic viability and profitability of
24 business and commerce in enterprise zones.

25 (b) Annually each state agency shall:

26 (1) review the rules it administers that:

27 (A) may adversely affect:

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

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

5 (B) may otherwise affect the implementation of
6 this chapter; and

7 (2) report the results of the review to the office.

8 (c) The office shall disseminate the reports to the
9 governing bodies of enterprise zones and others as necessary to
10 advance the purposes of this subchapter.

11 (d) To contribute to the implementation of this subchapter,
12 an agency may waive, modify, provide exemptions to, or otherwise
13 minimize the adverse effects of the rules it administers on the
14 renovation, improvement, or new construction of housing in
15 enterprise zones or on the economic viability and profitability of
16 business and commerce in enterprise zones.

17 Section 489.337. STATE PREFERENCES. (a) A state agency
18 shall give preference to the governing body of an enterprise zone or
19 a qualified business or qualified employee located in an enterprise
20 zone over other eligible applicants for grants or loans that are
21 administered by the state agency if:

22 (1) at least 50 percent of the grant or loan will be
23 spent for the direct benefit of the enterprise zone; and

24 (2) the purpose of the grant or loan is to:

25 (A) promote economic development in the
26 community; or

27 (B) construct, improve, extend, repair, or

1 maintain public facilities in the community.

2 (b) The comptroller may and is encouraged to deposit state
3 money in financial institutions located or doing business in
4 enterprise zones.

5 (c) A state agency may and is encouraged to contract with
6 businesses located in enterprise zones.

7 (d) The office may give preference to enterprise zones in
8 granting economic development money or other benefits.

9 Section 489.338. STATE TAX REFUNDS AND CREDITS; REPORT.

10 (a) Subject to Section 489.351, an enterprise project is entitled
11 to:

12 (1) a refund of state taxes under Section 151.429, Tax
13 Code; and

14 (2) until September 1, 2005, a franchise tax credit
15 under Subchapter P or Q, Chapter 171, Tax Code.

16 (b) Subject to Section 489.351, a qualified business is
17 entitled to a refund of state taxes under Sections 151.431 and
18 171.501, Tax Code.

19 (c) Not later than the 60th day after the last day of each
20 fiscal year, the comptroller shall report to the office the
21 statewide total of the tax refunds and credits made under this
22 section during that fiscal year.

23 Section 489.339. LOCAL SALES AND USE TAX REFUNDS. (a) To
24 encourage the development of areas designated as enterprise zones,
25 the governing body of a municipality through a program may refund
26 its local sales and use taxes paid by a qualified business on:

27 (1) the purchase, lease, or rental of equipment or

1 machinery for use in an enterprise zone;

2 (2) the purchase of material for use in remodeling,
3 rehabilitating, or constructing a structure in an enterprise zone;

4 (3) labor for remodeling, rehabilitating, or
5 constructing a structure in an enterprise zone; and

6 (4) electricity and natural gas purchased and consumed
7 in the normal course of business in the enterprise zone.

8 (b) To promote the public health, safety, or welfare, the
9 governing body of a municipality or county through a program may
10 refund its local sales and use taxes paid by a qualified business or
11 qualified employee.

12 (c) The governing body of a municipality or county that is
13 the governing body of an enterprise zone may provide for the partial
14 or total refund of its local sales and use taxes paid by a person
15 making a taxable purchase, lease, or rental for development or
16 revitalization in the zone.

17 (d) A person entitled to a refund of local sales and use
18 taxes under this section shall pay the entire amount of state and
19 local sales and use taxes at the time the taxes would be due if an
20 agreement for the refund did not exist.

21 (e) An agreement to refund local sales and use taxes under
22 this section must:

23 (1) be written;

24 (2) contain an expiration date; and

25 (3) require that the person entitled to the refund
26 provide to the municipality or county making the refund the
27 documentation necessary to support a refund claim.

1 (f) The municipality or county shall make the refund
2 directly to the person entitled to the refund in the manner provided
3 by the agreement.

4 Section 489.340. REFUND, REBATE, OR PAYMENT OF TAX PROCEEDS
5 TO QUALIFIED HOTEL PROJECT. (a) For a period that may not exceed 10
6 years, a governmental body, including a municipality, county, or
7 political subdivision, may agree to rebate, refund, or pay eligible
8 taxable proceeds to the owner of a qualified hotel project at which
9 the eligible taxable proceeds were generated.

10 (b) A municipality with a population of 1,500,000 or more
11 may agree to guarantee from hotel occupancy taxes the bonds or other
12 obligations of a municipally sponsored local government
13 corporation created under the Texas Transportation Corporation Act
14 (Article 15281, Vernon's Texas Civil Statutes) that were issued or
15 incurred to pay the cost of construction, remodeling, or
16 rehabilitation of a qualified hotel project.

17 (c) An a agreement under this section must be in writing,
18 contain an expiration date, and require the beneficiary to provide
19 documentation necessary to support a claim.

20 (d) A governmental body that makes an agreement under this
21 section shall make the rebate, refund, or payment directly to the
22 beneficiary.

23 (e) In this section, "eligible taxable proceeds" means
24 taxable proceeds generated, paid, or collected by a qualified hotel
25 project or a business at a qualified hotel project, including hotel
26 occupancy taxes, ad valorem taxes, sales and use taxes, and mixed
27 beverage taxes.

1 Section 489.341. REDUCTION OR ELIMINATION OF LOCAL FEES OR
2 TAXES. (a) To promote the public health, safety, or welfare, the
3 governing body of a municipality or county through a program may
4 reduce or eliminate fees or taxes that it imposes on a qualified
5 business or qualified employee.

6 (b) This section does not apply to sales and use taxes or
7 property taxes.

8 Section 489.342. TAX INCREMENT FINANCING AND ABATEMENT;
9 LIMITATIONS ON APPRAISED VALUE. Designation of an area as an
10 enterprise zone is also designation of the area as a reinvestment
11 zone for:

12 (1) tax increment financing under Chapter 311, Tax
13 Code;

14 (2) tax abatement under Chapter 312, Tax Code; and

15 (3) limitations on appraised value under Chapter 313,
16 Tax Code.

17 Section 489.343. TAX EXEMPTION FOR NEIGHBORHOOD ENTERPRISE
18 ASSOCIATION. A neighborhood enterprise association is exempt from
19 state and local taxes during the period of the designation of the
20 enterprise zone in which it is located. The exemption applies to
21 tax arrearages and other back assessments on proper leased under
22 Section 489.347.

23 Section 489.344. DEVELOPMENT BONDS. To finance a project
24 in an enterprise zone, bonds may be issued under:

25 (1) Chapter 1433; or

26 (2) the Development Corporation Act of 1979 (Article
27 5190.6, Vernon's Texas Civil Statutes).

Section 489.345. INDUSTRIAL DEVELOPMENT CORPORATION. (a)

The governing body of a municipality that is the governing body of an enterprise zone may create, in accordance with the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), an industrial development corporation for use by the enterprise zone.

(b) A corporation created under this section has the powers and is subject to the limitations of a corporation created under the Development Corporation Act of 1979. To the extent of a conflict between this section and that Act, that Act prevails.

(c) The articles of incorporation of a corporation created under this section must state that the corporation is governed by this section.

(d) The governing body of the municipality that creates an industrial development corporation shall appoint the board of directors of the corporation.

Section 489.346. OTHER LOCAL INCENTIVES. (a) The governing body of a municipality or county that is the governing body of an enterprise zone may:

(1) defer compliance in the zone with the subdivision and development ordinances or rules, other than those relating to streets and roads or sewer or water services, of the municipality or county, as appropriate;

(2) give priority to the zone for the receipt of:

(A) community development block grant money;

(B) industrial revenue bonds; or

(C) funds received under the federal Job Training

1 Partnership Act (29 U.S.C. Section 1501 et seq.);

2 (3) adopt and implement a plan for police protection
3 in the zone;

4 (4) amend the zoning ordinances of the municipality or
5 county, as appropriate, to promote economic development in the
6 zone;

7 (5) establish permitting preferences for businesses
8 in the zone;

9 (6) establish simplified, accelerated, or other
10 special permit procedures for businesses in the zone;

11 (7) waive development fees for projects in the zone;

12 (8) create a local enterprise zone fund for funding
13 bonds or other programs or activities to develop or revitalize the
14 zone;

15 (9) for qualified businesses in the zone, reduce rates
16 charged by:

17 (A) a utility owned by the municipality or
18 county, as appropriate; or

19 (B) a cooperative corporation or utility owned by
20 private investors, subject to the requirements of Subsection (b);

21 (10) in issuing housing finance bonds, give priority
22 to persons or projects in the zone;

23 (11) in providing services, give priority to local
24 economic development, educational, job training, or transportation
25 programs that benefit the zone; or

26 (12) sell real property owned by the municipality or
27 county, as appropriate, and located in the enterprise zone in

1 accordance with Section 489.348.

2 (b) A reduction in utility rates under Subsection (a)(9)(B)
3 is subject to the agreement of the affected utility and the approval
4 of the appropriate regulatory authority. The rates may be reduced
5 up to but not more than five percent below the lowest rate
6 authorized for a person described by Subsection (a)(9)(B). A
7 qualified enterprise project or the governing body of the
8 enterprise zone may petition the appropriate utility and the
9 appropriate regulatory authority to receive a reduced rate under
10 this section, and the regulatory authority may order that rates be
11 reduced. In making its determination under this section, the
12 regulatory authority shall consider revitalization goals for the
13 enterprise zone. In setting the rates of the utility the
14 appropriate regulatory authority shall allow the utility to recover
15 the amount of the reduction.

16 Section 489.347. LEASE OF PUBLIC PROPERTY TO NEIGHBORHOOD
17 ENTERPRISE ASSOCIATION. (a) The state or a local government may
18 lease to a neighborhood enterprise association real property
19 located in the association's geographical neighborhood area that is
20 owned by the governmental entity and that is not being used by the
21 entity.

22 (b) The lease must be for a term of not less than 20 years
23 and the full amount of the rental fees under the lease may not
24 exceed \$1 a year.

25 (c) The state or local government shall renew the lease on
26 its expiration if the association has continuously complied with
27 this subchapter during the lease term.

1 Section 489.348. DISPOSITION OF PUBLIC PROPERTY IN
2 ENTERPRISE ZONE. (a) After an area is designated as an enterprise
3 zone, the state, a municipality, or a county that owns a surplus
4 building or vacant land in the zone may dispose of the building or
5 land by:

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

7 (2) selling the land to a neighborhood enterprise
8 association; or

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

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

21 (c) An urban homestead program must provide that:

22 (1) the state, municipality, or county is to sell to an
23 individual a residence or part of a residence that it owns for an
24 amount not to exceed \$100;

25 (2) as a condition of the sale, the individual must
26 agree to live in the residence for at least seven years and to
27 renovate or remodel the residence to meet the level of maintenance

1 stated in an agreement between the individual and the governmental
2 entity; and

3 (3) after the individual satisfies the seven-year
4 residency and property improvement requirements of the agreement,
5 the governmental entity shall assign the residence to the
6 individual.

7 Section 489.349. WAIVER OF PERFORMANCE BOND. A
8 subcontractor is not required to execute a performance bond under
9 Chapter 2253 if:

10 (1) the construction, alteration, repair, or other
11 public work to be performed under the contract is entirely in an
12 enterprise zone; and

13 (2) the amount of the contract does not exceed
14 \$200,000.

15 Section 489.350. LIABILITY OF CONTRACTOR OR ARCHITECT. A
16 contractor or architect who constructs or rehabilitates a building
17 in an enterprise zone is liable for any structural defect in the
18 building only for the period ending on the 10th anniversary of the
19 date on which beneficial occupancy of the building begins after the
20 construction or rehabilitation, notwithstanding a statute of
21 limitations to the contrary.

22 Section 489.351. MONITORING QUALIFIED BUSINESS OR
23 ENTERPRISE PROJECT COMMITMENTS. (a) The comptroller may monitor a
24 qualified business or enterprise project to determine whether and
25 to what extent the business or project has followed through on any
26 commitments made by it or on its behalf under this chapter.

27 (b) The comptroller may determine that the business or

1 project is not entitled to a refund or credit of state taxes under
2 Section 489.338 if the comptroller finds that:

3 (1) the business or project is not willing to
4 cooperate with the comptroller with the information the comptroller
5 needs to make the determination under Subsection (a); or

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

9 SUBCHAPTER D. ASSISTANCE TO DEFENSE DEPENDENT COMMUNITIES

10 Section 489.401. DEFENSE ECONOMIC READJUSTMENT ZONES. (a)
11 The office shall assist:

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

14 (2) the governing body of a readjustment zone in
15 obtaining assistance from another state agency, including job
16 training and technical assistance to qualified businesses in a
17 zone; and

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

20 (b) The office shall provide to persons desiring to locate
21 and engage in business in a readjustment zone information and
22 appropriate assistance relating to the required legal
23 authorization, including a state license, permit, certificate,
24 approval, registration, or charter, to engage in business in this
25 state.

26 (c) The office shall publicize existing tax incentives and
27 economic development programs in readjustment zones.

1 (d) On request the office shall offer to a unit of local
2 government having a readjustment zone within its jurisdiction
3 technical assistance relating to tax abatement and the development
4 of alternative revenue sources.

5 Section 489.402. COORDINATION WITH OTHER GOVERNMENTAL
6 ENTITIES. (a) In cooperation with the appropriate units of local
7 government and other state agencies, the office shall coordinate
8 and streamline state business assistance programs and permit or
9 license application procedures for businesses in readjustment
10 zones.

11 (b) The office shall work with the responsible state and
12 federal agencies to coordinate readjustment zone programs with
13 other programs carried out in a readjustment zone, including
14 housing, community and economic development, small business,
15 banking, financial assistance, transportation, and employment
16 training programs.

17 (c) The office shall encourage other state agencies in
18 awarding grants, loans, or services to give priority to businesses
19 in readjustment zones.

20 (d) For the purposes of this subchapter, territory in the
21 extraterritorial jurisdiction of a municipality is considered to be
22 in the jurisdiction of the municipality.

23 Section 489.403. CRITERIA FOR READJUSTMENT ZONE
24 DESIGNATION. (a) To be designated as a readjustment zone an area
25 must:

26 (1) have a continuous boundary;

27 (2) be at least one square mile but not larger than 20

1 square miles, excluding lakes, waterways, and transportation
2 arteries of the municipality, county, or combination of
3 municipalities or counties nominating the area as a readjustment
4 zone;

5 (3) be located in an adversely affected
6 defense-dependent community;

7 (4) have at least 50 percent of its area located in an
8 existing or former United States Department of Defense facility;
9 and

10 (5) be nominated as a readjustment zone by an
11 ordinance or order adopted by the nominating body.

12 (b) An area is not prohibited from being included in a
13 readjustment zone because the area is also included in an
14 enterprise zone designated under Subchapter C.

15 Section 489.404. ADVERSELY AFFECTED DEFENSE-DEPENDENT
16 COMMUNITY. A municipality or county is an adversely affected
17 defense-dependent community if the office determines that:

18 (1) the municipality or county requires assistance
19 because of:

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

22 (B) the cancellation or termination of a United
23 States Department of Defense contract or the failure of the
24 department of defense to proceed with an approved major weapon
25 system program;

26 (C) a publicly announced planned major reduction
27 in department of defense spending that would directly and adversely

1 affect the municipality or county; or

2 (D) the closure or a significant reduction of the
3 operations of a defense facility as the result of a merger,
4 acquisition, or consolidation of a defense contractor operating the
5 facility; and

6 (2) the municipality or county is expected to
7 experience, during the period between the beginning of the federal
8 fiscal year during which an event described by Subdivision (1) is
9 finally approved and the date that the event is to be substantially
10 completed, a direct loss of:

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

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

17 (C) one percent of the civilian jobs in the
18 municipality or county.

19 Section 489.405. NOMINATION OF READJUSTMENT ZONE. (a) The
20 governing body of a municipality or county that is an adversely
21 affected defense-dependent community individually or in
22 combination with other municipalities or counties that are
23 adversely affected defense-dependent communities, by ordinance or
24 order, as appropriate, may nominate as a readjustment zone an area
25 within its jurisdiction that meets the criteria under Section
26 489.403.

27 (b) Unless the nominating body holds a public hearing before

1 adopting an ordinance or order under this section the ordinance or
2 order is not valid.

3 (c) The governing body of a county may not nominate
4 territory in a municipality, including extraterritorial
5 jurisdiction of a municipality, to be included in a proposed
6 readjustment zone unless the governing body of the municipality
7 also nominates the territory and together with the county files a
8 joint application under Section 489.407.

9 (d) The governing bodies of a combination of municipalities
10 or counties may not jointly nominate an area as a readjustment zone
11 unless the governing bodies have entered into a binding agreement
12 to administer the zone jointly.

13 Section 489.406. NOMINATING ORDINANCE OR ORDER. (a) An
14 ordinance or order nominating an area as a readjustment zone must:

15 (1) describe precisely the area to be included in the
16 zone by a legal description or reference to roadways, lakes,
17 waterways, or municipal or county boundaries;

18 (2) state a finding that the area meets the
19 requirements of this chapter;

20 (3) summarize briefly the incentives, including tax
21 incentives, that, at the election of the nominating body, apply to
22 business enterprises in the area; and

23 (4) nominate the area as a readjustment zone.

24 (b) At least one of the incentives summarized under
25 Subsection (a)(3) must not be offered elsewhere within the
26 jurisdiction except within an enterprise zone designated under
27 Subchapter C.

1 (c) This section does not prohibit a municipality or county
2 from extending additional incentives, including tax incentives,
3 for business enterprises in a readjustment zone by a separate
4 ordinance or order.

5 Section 489.407. APPLICATION FOR DESIGNATION. (a) For an
6 area to be designated as a readjustment zone, the nominating body,
7 after nominating the area as a readjustment zone, must send to the
8 office a written application for designation of the area as a
9 readjustment zone.

10 (b) The application must include:

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

13 (2) a map of the area showing existing streets and
14 highways;

15 (3) an analysis and appropriate supporting documents
16 and statistics demonstrating that the area qualifies for
17 designation as a readjustment zone;

18 (4) a statement that specifies each tax incentive,
19 grant, other financial incentive or benefit, or program to be
20 provided by the nominating body to business enterprises in the area
21 that is not to be provided throughout the governmental entity or
22 entities nominating the area as a readjustment zone;

23 (5) a statement of the economic development and
24 planning objectives for the area;

25 (6) an estimate of the economic impact of the
26 designation of the area as a readjustment zone on the revenues of
27 the governmental entity or entities nominating the area as a

1 readjustment zone, considering all the financial incentives and
2 benefits and the programs contemplated;

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

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

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

11 (10) a description of the administrative authority, if
12 one is to be appointed for the readjustment zone under Section
13 489.415; and

14 (11) any additional information the office requires.

15 (c) Information required by Subsection (b) is for
16 evaluation purposes only.

17 Section 489.408. REVIEW OF APPLICATION. (a) On receipt of
18 an application for the designation of a readjustment zone, the
19 office shall review the application to determine if the nominated
20 area qualifies for designation as a readjustment zone under this
21 chapter.

22 (b) The office shall allow an applicant to correct any
23 omission or clerical error in the application and to return the
24 application to the office on or before the 15th day after the date
25 on which the office receives the application.

26 Section 489.409. DESIGNATION AGREEMENT. (a) If the office
27 determines that a nominated area for which a designation

1 application has been received satisfies the criteria under Section
2 489.403, the office shall negotiate with the nominating body for a
3 designation agreement.

4 (b) A designation agreement must:

5 (1) designate the nominated area as a readjustment
6 zone; and

7 (2) designate the administrative authority, if one is
8 to be appointed for the zone under Section 489.415, and describe its
9 functions and duties, which should include decision-making
10 authority and the authority to negotiate with affected entities.

11 (c) The office shall complete the negotiations and sign the
12 agreement not later than the 60th day after the date on which the
13 application is received unless the office extends that period to
14 the 90th day after the date on which the application was received.

15 (d) If an agreement is not completed within the 60-day
16 period provided by Subsection (c), the office shall provide to the
17 nominating body the specific areas of concern and a final proposal
18 for the agreement.

19 (e) If the agreement is not executed before the 91st day
20 after the date on which the application was received, the
21 application is considered to be denied.

22 Section 489.410. DENIAL OF APPLICATION; NOTICE. (a) The
23 office may deny an application for the designation of a
24 readjustment zone only if the office determines that the nominated
25 area does not satisfy the criteria under Section 489.403.

26 (b) The office shall inform the nominating body of the
27 specific reasons for denial of an application, including denial

1 under Section 489.409(e).

2 Section 489.411. PERIOD OF DESIGNATION. An area may be
3 designated as a readjustment zone for a maximum of seven years. A
4 designation remains in effect until September 1 of the final year of
5 the designation.

6 Section 489.412. AMENDING BOUNDARIES. (a) The nominating
7 body may amend the boundary of a readjustment zone by ordinance or
8 order, as appropriate, adopted after a public hearing on the issue.

9 (b) The amended boundary:

10 (1) must be continuous;

11 (2) may not exceed the original size requirement of
12 Section 486.403; and

13 (3) may not exclude any qualified business designated
14 as a defense readjustment project included within the boundary of
15 the zone as designated.

16 (c) The readjustment zone with the amended boundary must
17 continue to meet the location requirements of Section
18 486.403(a)(4).

19 (d) A nominating body may not make more than one boundary
20 amendment annually for a readjustment zone.

21 (e) For each amendment of a readjustment zone boundary, the
22 nominating body shall pay the office a reasonable fee, in an amount
23 specified by the office, not to exceed \$500. The office may use fees
24 collected under this subsection to administer this chapter and for
25 other purposes to advance this chapter.

26 Section 489.413. REMOVAL OF DESIGNATION. (a) The office
27 may remove the designation of an area as a readjustment zone if:

1 (1) the area no longer meets the criteria for
2 designation under this chapter or by rule adopted under this
3 chapter; or

4 (2) the office determines that the governing body of
5 the readjustment zone has not complied with commitments made in the
6 ordinance or order nominating the area as a readjustment zone.

7 (b) The removal of a designation does not affect the
8 validity of a tax incentive or regulatory relief granted or accrued
9 before the removal.

10 Section 489.414. ADMINISTRATION BY GOVERNING BODY. The
11 governing body of a readjustment zone is the governing body of the
12 municipality or county, or the governing bodies of the combination
13 of municipalities or counties, that applied to have the area
14 designated as a readjustment zone.

15 Section 489.415. ADMINISTRATION BY ADMINISTRATIVE
16 AUTHORITY. (a) The governing body of a readjustment zone may
17 delegate its administrative duties to an administrative authority
18 appointed by the governing body.

19 (b) An administrative authority must:

20 (1) be composed of 3, 5, 7, 9, 11, or 15 members;

21 (2) be a viable and responsive body generally
22 representative of all public or private entities that have a stake
23 in the development of the zone; and

24 (3) if the readjustment zone includes private
25 residences, include:

26 (A) an elected official representing
27 readjustment zone residents and businesses; or

1 (B) at least two readjustment zone residents.

2 Section 489.416. LIAISON. The governing body of a
3 readjustment zone shall designate a liaison to communicate and
4 negotiate with:

5 (1) the office;

6 (2) the administrative authority, if one exists;

7 (3) a defense readjustment project; and

8 (4) other entities in or affected by the readjustment
9 zone.

10 Section 489.417. ANNUAL REPORT. (a) Not later than October
11 1 of each year, the governing body of a readjustment zone shall
12 submit to the office a report in the form required by the office.

13 (b) The report must be approved by the readjustment zone's
14 administrative authority, if one exists.

15 (c) The report must include for the year preceding the date
16 of the report:

17 (1) a list of local incentives for community
18 development available in the zone;

19 (2) the use of local incentives for which the
20 governing body provided in the ordinance or order nominating the
21 readjustment zone and the effect of those incentives on revenue;

22 (3) the number of businesses assisted, located, and
23 retained in the zone since its designation due to the existence of
24 the readjustment zone;

25 (4) a summary of all industrial revenue bonds issued
26 to finance projects located in the zone; and

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

1 revitalization goals for the zone.

2 Section 489.418. QUALIFIED BUSINESS. (a) A person is a
3 qualified business if the office, for the purpose of state benefits
4 under this chapter, or the governing body of a readjustment zone,
5 for the purpose of local 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 the readjustment zone; and

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

11 (A) residents of the governing jurisdiction;

12 (B) economically disadvantaged individuals, as
13 defined by Section 489.328(c); or

14 (C) dislocated defense workers.

15 (b) The governing body of a readjustment zone may certify a
16 franchise or subsidiary of a new or existing business as a qualified
17 business if the franchise or subsidiary:

18 (1) is located entirely in the readjustment zone; and

19 (2) maintains separate books and records of the
20 business activity conducted in the zone.

21 Section 489.419. PROHIBITION ON QUALIFIED BUSINESS
22 CERTIFICATION. If the office determines that the governing body of
23 a readjustment zone is not complying with this chapter, the office
24 shall prohibit the certification of a qualified business in the
25 zone until the office determines that the governing body is
26 complying with this chapter. The office may not designate more than
27 two businesses in a single readjustment zone as defense

1 readjustment projects.

2 Section 489.420. REQUEST FOR APPLICATION FOR DEFENSE
3 READJUSTMENT PROJECT DESIGNATION. A qualified business in a
4 readjustment zone may request that the governing body of the
5 readjustment zone apply to the office for designation of the
6 business as a defense readjustment project. The request must also
7 be made to the readjustment zone's administrative authority, if one
8 exists.

9 Section 489.421. APPLICATION FOR DEFENSE READJUSTMENT
10 PROJECT DESIGNATION. (a) If the governing body of a readjustment
11 zone or the governing body and administrative authority of a
12 readjustment zone, as appropriate, approve a request made under
13 Section 489.420, the governing body may apply to the office for the
14 designation of the qualified business as a defense readjustment
15 project.

16 (b) An application must:

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

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

25 (A) the number of anticipated new permanent jobs
26 the business will create;

27 (B) the anticipated number of permanent jobs the

1 business will retain;

2 (C) the amount of investment to be made in the
3 zone; and

4 (D) other information the office requires; and

5 (3) describe the local effort made by the governmental
6 entity or entities that applied to have the area designated as a
7 readjustment zone, the administrative authority, if one exists, the
8 qualified business, and other affected entities to develop and
9 revitalize the zone.

10 (c) For the purposes of this section, local effort to
11 develop and revitalize a readjustment zone is:

12 (1) the willingness of public entities in the zone to
13 provide services, incentives, and regulatory relief authorized by
14 this chapter and to negotiate with the qualified business for which
15 application is made and with other local groups or businesses to
16 achieve the public purposes of this chapter; and

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

19 (d) Factors to be considered in evaluating the local effort
20 of a public entity include:

21 (1) tax abatement, deferral, refunds, or other tax
22 incentives;

23 (2) regulatory relief, including:

24 (A) zoning changes or variances;

25 (B) exemptions from unnecessary building code
26 requirements, impact fees, or inspection fees; and

27 (C) streamlined permitting;

- 1 (3) enhanced municipal services, including:
2 (A) improved police and fire protection;
3 (B) institution of community crime prevention
4 programs; and
5 (C) special public transportation routes or
6 reduced fares;
7 (4) improvements in community facilities, including:
8 (A) capital improvements in water and sewer
9 facilities;
10 (B) road repair; and
11 (C) creation or improvement of parks;
12 (5) improvements to housing, including:
13 (A) low-interest loans for housing
14 rehabilitation, improvement, or new construction; and
15 (B) transfer of abandoned housing to individuals
16 or community groups;
17 (6) business and industrial development services,
18 including:
19 (A) low-interest loans for business;
20 (B) use of surplus school buildings or other
21 underutilized publicly owned facilities as small business
22 incubators;
23 (C) provision of publicly owned land for
24 development purposes, including residential, commercial, or
25 industrial development;
26 (D) creation of special one-stop permitting and
27 problem resolution centers or ombudsmen;

- 1 (E) promotion and marketing services; and
- 2 (7) job training and employment services, including:
- 3 (A) retraining programs;
- 4 (B) literacy and employment skills programs;
- 5 (C) vocational education; and
- 6 (D) customized job training.

7 (e) Factors to be considered in evaluating the local effort
8 of a private entity include:

9 (1) the willingness to negotiate or cooperate in the
10 redevelopment of vacated defense facilities and the creation of
11 high-skilled, high wage jobs;

12 (2) commitments to hire dislocated defense workers and
13 economically disadvantaged workers;

14 (3) commitments to hire minority workers and to
15 contract with minority-owned businesses;

16 (4) provision of technical and vocational job training
17 for residents of the nominating body's jurisdiction or economically
18 disadvantaged employees;

19 (5) provision of child care for employees;

20 (6) commitments to implement and contribute to a
21 tutoring or mentoring program for area students;

22 (7) prevention or reduction of juvenile crime; and

23 (8) the willingness to make contributions to the
24 well-being of the community, such as job training, or the donation
25 of land for parks or other public purposes.

26 Section 489.422. DEFENSE READJUSTMENT PROJECT DESIGNATION.

27 (a) The office may designate a qualified business as a defense

1 readjustment project only if the office determines that:

2 (1) the business is a qualified business under Section
3 489.418 that is located in or has made a substantial commitment to
4 locate in a defense readjustment zone;

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

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

12 (b) The office shall designate qualified businesses as
13 defense readjustment projects on a competitive basis. The office
14 shall make its designation decisions using a weighted scale in
15 which:

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

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

22 (3) 25 percent of the evaluation depends on the
23 evaluation criteria as determined by the office, which must
24 include:

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

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

3 (c) The office may remove a defense readjustment project
4 designation if it determines that the business is not complying
5 with a requirement for its designation.

6 Section 489.423. ALLOCATION OF JOBS ELIGIBLE FOR TAX
7 REFUND. When the office designates a business as a defense
8 readjustment project, the office shall allocate to the project the
9 maximum number of new permanent jobs or retained jobs eligible to be
10 included in a computation of a tax refund for the project. The
11 number may not exceed 500 or a number equal to 110 percent of the
12 number of anticipated new permanent jobs or retained jobs specified
13 in the application for designation of the business as a defense
14 readjustment project under Section 489.421, whichever is less.

15 Section 489.424. DURATION OF CERTAIN DESIGNATIONS. The
16 office's designation of a qualified business as a defense
17 readjustment project is effective until the fifth anniversary of
18 the date on which the designation is made regardless of whether the
19 readjustment zone in which the project is located expires before
20 the fifth anniversary of the project.

21 Section 489.425. EXEMPTIONS FROM STATE REGULATION;
22 SUSPENSION OF LOCAL REGULATION. (a) A state agency may exempt from
23 its regulation a qualified business, qualified employee, or
24 qualified property in a readjustment zone if the exemption is
25 consistent with:

26 (1) the purposes of this subchapter; and

27 (2) the protection and promotion of the general health

1 and welfare.

2 (b) A local government may suspend local regulation,
3 including an ordinance, rule, or standard, relating to zoning,
4 licensing, or building codes in a readjustment zone.

5 (c) An exemption from or suspension of regulation under this
6 section must be adopted in the same manner that the regulation was
7 adopted.

8 (d) The authorization provided by Subsection (a) or (b) does
9 not apply to regulation:

10 (1) that relates to:

11 (A) civil rights;

12 (B) equal employment;

13 (C) equal opportunity;

14 (D) fair housing rights; or

15 (E) preservation of historical sites or
16 historical artifacts;

17 (2) the relaxation of which is likely to harm the
18 public safety or public health, including environmental health; or

19 (3) that is specifically imposed by law.

20 (e) For the purposes of this section, property is classified
21 as qualified property if the property is:

22 (1) tangible personal property located in the
23 readjustment zone that was acquired from the federal government by
24 lease or deed or:

25 (A) acquired by a taxpayer not earlier than the
26 90th day before the date on which the area was designated as a
27 readjustment zone; and

1 (B) used predominantly by the taxpayer in the
2 active conduct of a trade or business;

3 (2) real property located in the readjustment zone
4 that was acquired from the federal government by lease or deed or:

5 (A) acquired by a taxpayer not earlier than the
6 90th day before the date on which the area was designated as a
7 readjustment zone and was used predominantly by the taxpayer in the
8 active conduct of a trade or business; or

9 (B) the principal residence of the taxpayer on
10 the date of the sale or exchange; or

11 (3) an interest in an entity that was certified as a
12 qualified business under Section 489.418 for the entity's most
13 recent tax year ending before the date of the sale or exchange.

14 Section 489.426. REVIEW OF STATE AGENCY RULES; REPORT. (a)
15 A state agency by rule may provide, when applicable, encouragements
16 and incentives to increase:

17 (1) the renovation, improvement, or new construction
18 of housing in readjustment zones; and

19 (2) the economic viability and profitability of
20 business and commerce in readjustment zones.

21 (b) The office shall disseminate the reports to the
22 governing bodies of readjustment zones and others as necessary to
23 advance the purposes of this chapter.

24 (c) To contribute to the implementation of this chapter, an
25 agency may waive, modify, provide exemptions to, or otherwise
26 minimize the adverse effects of the rules it administers on the
27 renovation, improvement, or new construction of housing in

1 readjustment zones or on the economic viability and profitability
2 of business and commerce in readjustment zones.

3 Section 489.427. STATE PREFERENCES. (a) A state agency
4 shall give preference to the governing body of a readjustment zone
5 or a qualified business or qualified employee located in a
6 readjustment zone over other eligible applicants for grants, loans,
7 or credit enhancements that are administered by the state agency
8 if:

9 (1) at least 50 percent of the grant, loan, or credit
10 enhancement will be spent for the direct benefit of the
11 readjustment zone; and

12 (2) the purpose of the grant, loan, or credit
13 enhancement is to:

14 (A) promote economic development in the
15 community; or

16 (B) construct, improve, extend, repair, or
17 maintain public facilities in the community.

18 (b) The comptroller may and is encouraged to deposit state
19 money in financial institutions located or doing business in
20 readjustment zones.

21 (c) A state agency may and is encouraged to contract with
22 businesses located in readjustment zones.

23 (d) The office or another state agency may give preference
24 to readjustment zones in granting economic development money or
25 other benefits.

26 Section 489.428. STATE TAX REFUNDS AND CREDITS; REPORT.

27 (a) Subject to Section 489.437, defense readjustment project is

1 eligible for:

2 (1) a refund of state taxes under Section 151.4291,
3 Tax Code;

4 (2) until September 1, 2005, a franchise tax credit
5 under Subchapter P or Q, Chapter 171, Tax Code; and

6 (3) the exclusion of receipts from service performed
7 in a readjustment zone in the determination of gross receipts from
8 business done in this state under Sections 171.103 and 171.1032,
9 Tax Code.

10 (b) Not later than the 60th day after the last day of each
11 fiscal year, the comptroller shall report to the office the
12 statewide total of the tax refunds or credits made under this
13 section during that fiscal year.

14 Section 489.429. LOCAL SALES AND USE TAX REFUNDS. (a) To
15 encourage the development of areas designated as readjustment
16 zones, the governing body of a municipality through a program may
17 refund its local sales and use taxes paid by a qualified business
18 on:

19 (1) the purchase, lease, or rental of equipment or
20 machinery for use in a readjustment zone;

21 (2) the purchase of material for use in remodeling,
22 rehabilitating, or constructing a structure in a readjustment zone;

23 (3) labor for remodeling, rehabilitating, or
24 constructing a structure in a readjustment zone; and

25 (4) electricity and natural gas purchased and consumed
26 in the normal course of business in the readjustment zone.

27 (b) To promote the public health, safety, or welfare, the

1 governing body of a municipality or county through a program may
2 refund its local sales and use taxes paid by a qualified business or
3 qualified employee.

4 (c) The governing body of a municipality or county that is
5 the governing body of a readjustment zone may provide for the
6 partial or total refund of its local sales and use taxes paid by a
7 person making a taxable purchase, lease, or rental for development
8 or revitalization in the zone.

9 (d) A person eligible for a refund of local sales and use
10 taxes under this section shall pay the entire amount of state and
11 local sales and use taxes at the time the taxes would be due if an
12 agreement for the refund did not exist.

13 (e) An agreement to refund local sales and use taxes under
14 this section must:

15 (1) be written;

16 (2) contain an expiration date; and

17 (3) require that the person eligible for the refund
18 provide to the municipality or county making the refund the
19 documentation necessary to support a refund claim.

20 (f) The municipality or county shall make the refund
21 directly to the person eligible for the refund in the manner
22 provided by the agreement.

23 Section 489.430. REDUCTION OR ELIMINATION OF LOCAL FEES OR
24 TAXES. (a) To promote the public health, safety, or welfare, the
25 governing body of a municipality or county through a program may
26 reduce or eliminate fees or taxes that it imposes on a qualified
27 business or qualified employee.

1 (b) This section does not apply to sales and use taxes or
2 property taxes.

3 Section 489.431. TAX INCREMENT FINANCING AND ABATEMENT.
4 Designation of an area as a readjustment zone is also designation of
5 the area as a reinvestment zone for:

6 (1) tax increment financing under Chapter 311, Tax
7 Code; and

8 (2) tax abatement under Chapter 312, Tax Code.

9 Section 489.432. DEVELOPMENT BONDS. To finance a project
10 in a readjustment zone, bonds may be issued under:

11 (1) Chapter 1433; or

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

14 Section 489.433. OTHER LOCAL INCENTIVES. (a) The
15 governing body of a municipality or county that is the governing
16 body of a readjustment zone may:

17 (1) defer compliance in the zone with the subdivision
18 and development ordinances or rules, other than those relating to
19 streets and roads or sewer or water services, of the municipality or
20 county, as appropriate;

21 (2) give priority to the zone for the receipt of:

22 (A) community development block grant money;

23 (B) industrial revenue bonds; or

24 (C) funds received for job training;

25 (3) adopt and implement a plan for police protection
26 in the zone;

27 (4) amend the zoning ordinances of the municipality or

1 county, as appropriate, to promote economic development in the
2 zone;

3 (5) establish permitting preferences for businesses
4 in the zone;

5 (6) establish simplified, accelerated, or other
6 special permit procedures for businesses in the zone;

7 (7) waive development fees for projects in the zone;

8 (8) create a local readjustment zone fund for funding
9 bonds or other programs or activities to develop or revitalize the
10 zone;

11 (9) for qualified businesses in the zone, reduce rates
12 charged by:

13 (A) a utility owned by the municipality or
14 county, as appropriate; or

15 (B) a cooperative corporation or utility owned by
16 private investors, subject to the requirements of Subsection (b);

17 (10) in issuing housing finance bonds, give priority
18 to persons or projects in the zone;

19 (11) in providing services, give priority to local
20 economic development, educational, job training, or transportation
21 programs that benefit the zone; or

22 (12) sell real property owned by the municipality or
23 county, as appropriate, and located in the readjustment zone in
24 accordance with Section 489.434.

25 (b) A reduction in utility rates under Subsection (a)(9)(B)
26 is subject to the agreement of the affected utility and the approval
27 of the appropriate regulatory authority under Title 2, Utilities

1 Code. The rates may be reduced up to but not more than five percent
2 below the lowest rate allowable for that customer class. In making
3 its determination under this section, the regulatory authority
4 shall consider revitalization goals for the readjustment zone. In
5 setting the rates of the utility the appropriate regulatory
6 authority shall allow the utility to recover the amount of the
7 reduction.

8 Section 489.434. DISPOSITION OF PUBLIC PROPERTY IN
9 READJUSTMENT ZONE. (a) After an area is designated as a
10 readjustment zone, the state, a municipality, or a county that owns
11 a surplus building (including any structure) or vacant land in the
12 zone may dispose of the building or land by:

- 13 (1) selling the building or land at a public auction;
14 (2) selling the building or land without notice or
15 bidding as provided by Subsection (d); or
16 (3) establishing an urban homestead program described
17 by Subsection (e).

18 (b) A municipality or county may sell a surplus building or
19 vacant land in the readjustment zone at less than fair market value
20 if the governing body of the municipality or county by ordinance or
21 order, as appropriate, adopts criteria that specify the conditions
22 and circumstances under which the sale may occur and the public
23 purpose to be achieved by the sale. A copy of the ordinance or order
24 must be filed with the office not later than the day on which the
25 sale occurs.

26 (c) If the surplus building or vacant land is sold at a
27 public auction, the building or land may be sold to a buyer who is

1 not the highest bidder if the criteria and public purpose specified
2 in the ordinance or order adopted under Subsection (b) are
3 satisfied.

4 (d) The surplus building or vacant land may be sold without
5 complying with notice or bidding requirements (including election
6 or voter approval requirements imposed by other law, if any) if the
7 criteria and public purpose specified in the ordinance or order
8 adopted under Subsection (b) are satisfied.

9 (e) An urban homestead program must provide that:

10 (1) the state, municipality, or county is to sell to an
11 individual a residence or part of a residence that it owns for an
12 amount not to exceed \$100;

13 (2) as a condition of the sale, the individual must
14 agree by covenant in the deed conveying the residence to live in the
15 residence for at least seven years and to renovate or remodel the
16 residence to meet the level of maintenance stated in an agreement
17 between the individual and the governmental entity; and

18 (3) after the individual satisfies the seven-year
19 residency and property improvement requirements of the agreement,
20 the governmental entity shall assign the residence to the
21 individual.

22 Section 489.435. WAIVER OF PERFORMANCE BOND. A
23 subcontractor is not required to execute a performance bond under
24 Chapter 2253 if:

25 (1) the construction, alteration, repair, or other
26 public work to be performed under the contract is entirely in a
27 readjustment zone; and

1 (2) the amount of the contract does not exceed
2 \$200,000.

3 Section 489.436. LIABILITY OF CONTRACTOR OR ARCHITECT. A
4 contractor or architect who constructs or rehabilitates a building
5 in a readjustment zone is liable for any structural defect in the
6 building only for the period ending on the 10th anniversary of the
7 date on which beneficial occupancy of the building begins after the
8 construction or rehabilitation, notwithstanding a statute of
9 limitations to the contrary.

10 Section 489.437. MONITORING DEFENSE READJUSTMENT PROJECT
11 COMMITMENTS. (a) The office may monitor a defense readjustment
12 project to determine whether and to what extent the project has
13 followed through on any commitments made by it or on its behalf
14 under this subchapter.

15 (b) The office may determine that the defense readjustment
16 project is not eligible for state tax refunds and credits under
17 Section 489.428 if the office finds that:

18 (1) the project is not willing to cooperate with the
19 office in providing the office with the information the office
20 needs to make the determination under Subsection (a); or

21 (2) the project has substantially failed to follow
22 through on its commitments made by it or on its behalf under this
23 chapter.

24 Section 489.438. GRANTS TO LOCAL AREAS AFFECTED BY DEFENSE
25 BASE REDUCTION. (a) A local governmental entity is eligible for a
26 grant under this section if it is:

27 (1) a municipality or county that is an adversely

1 affected defense-dependent community;

2 (2) a regional planning commission that has an
3 adversely affected defense-dependent community within its
4 boundaries;

5 (3) a public junior college district all or part of
6 which is located in an adversely affected defense-dependent
7 community; or

8 (4) a campus or extension center for education
9 purposes of the Texas State Technical College System located in an
10 adversely affected defense-dependent community.

11 (b) A municipality or county is an adversely affected
12 defense-dependent community if the office determines that:

13 (1) the municipality or county includes within its
14 boundaries a defense facility that the office of defense or
15 applicable military office has publicly proposed for closure or
16 realignment; or

17 (2) the municipality or county:

18 (A) requires assistance because of:

19 (i) the proposed or actual establishment,
20 realignment, or closure of a defense facility;

21 (ii) the cancellation or termination of a
22 United States Department of Defense contract or the failure of the
23 department of defense to proceed with an approved major weapon
24 system program;

25 (iii) a publicly announced planned major
26 reduction in department of defense spending that would directly and
27 adversely affect the municipality or county; or

1 (iv) the closure or a significant reduction
2 of the operations of a defense facility as the result of a merger,
3 acquisition, or consolidation of a defense contractor operating the
4 facility; and

5 (B) is expected to experience, during the period
6 between the beginning of the federal fiscal year during which an
7 event described by Subdivision (2)(A) is finally approved and the
8 date that the event is to be substantially completed, a direct loss
9 of:

10 (i) 2,500 or more defense worker jobs in any
11 area of the municipality or county that is located in an urbanized
12 area of a metropolitan statistical area;

13 (ii) 1,000 or more defense worker jobs in
14 any area of the municipality or county that is not located in an
15 urbanized area of a metropolitan statistical area; or

16 (iii) defense worker jobs representing one
17 percent of the jobs in the municipality or county.

18 (c) From money appropriated under this chapter, the office
19 may make a grant to an eligible local governmental entity to allow
20 the entity to meet a matching money or investment requirement in
21 order to receive from the United States assistance that is provided
22 to allow the local governmental entity to respond to or recover from
23 an event described by Section 489.438(b). In addition, a grant may
24 be made to an eligible local governmental entity to match the
25 entity's contribution for a purpose described in Section 486.005 on
26 a closed or realigned defense facility.

27 (d) A grant may not be less than \$50,000 or more than the

1 least of:

2 (1) 50 percent of the amount of matching money or
3 investment that the local governmental entity is required to
4 provide, subject to Subsection (c);

5 (2) 50 percent of the local governmental entity's
6 investment for purposes described in Section 486.005, in cases
7 where United States assistance is not available; or

8 (3) \$2 million.

9 (e) If the local governmental entity demonstrates to the
10 office that, because of a limited budget, resources are not
11 available to provide 50 percent of the amount of matching money or
12 investment that the local governmental entity is required to
13 provide, the grant may be not more than 80 percent of the amount of
14 that matching money or investment requirement, but may not be more
15 than \$2 million.

16 (f) The office may make a grant to an eligible local
17 governmental entity described by Section 486.003(a)(3) or (4)
18 without regard to the availability or acquisition of matching
19 money.

20 (g) The local governmental entity may use the proceeds of
21 the grant for purchase of property from the department of defense or
22 its designated agent, new construction, rehabilitation, or
23 renovation of facilities or infrastructure, or purchase of capital
24 equipment or insurance.

25 (1) The local governmental entity may deliver the
26 money to a special district, development corporation, or other
27 instrumentality of the state or the local governmental entity for

1 use as provided by this chapter and other applicable law.

2 (2) An eligible local governmental entity described by
3 Section 486.003(a)(3) or (4) may use the proceeds of the grant to
4 purchase or lease equipment to train defense workers whose jobs
5 have been threatened or lost because of an event described by
6 Section 486.003 (b)(2)(A).

7 (h) The office shall establish a defense economic
8 adjustment assistance panel within the office. The panel consists
9 of at least three and not more than five professional full-time
10 employees of the office appointed by the executive director of the
11 office.

12 (i) A local governmental entity may apply for a grant under
13 this chapter to the office on a form prescribed by the office. The
14 office shall establish periodic application cycles to enable the
15 panel and office to evaluate groups of applicants in relation to
16 each other.

17 (j) The panel shall evaluate each application and assign the
18 applicant a score based on:

19 (1) the significance of the adverse effect within the
20 local governmental entity, including the number of jobs lost in
21 relation to the workforce in the local governmental entity's
22 jurisdiction and the effect on the area's economy and tax revenue;

23 (2) the extent to which the local governmental entity
24 has used its existing resources to promote local economic
25 development;

26 (3) the amount of any grant that the local
27 governmental entity has previously received under this chapter;

1 (4) the anticipated number of jobs to be created in
2 relation to the amount of the grant sought; and

3 (5) the extent to which the grant will affect the
4 region in which the local governmental entity is located.

5 (k) The panel shall submit its scores to the office's
6 governing body. The governing body shall use the scores to
7 determine whether to make a grant to an applicant. The governing
8 body may not make a grant unless the legislature has appropriated
9 the money for the grant.

10 Section 489.439. REVOLVING LOANS TO COMMUNITIES
11 POTENTIALLY AFFECTED BY DEFENSE BASE REDUCTION PROCESS (a) The
12 office shall administer a revolving loan program for assistance to
13 an eligible community in developing infrastructure to minimize the
14 possibility of or the negative effects of defense base reduction on
15 the eligible community. The loans may be granted to an eligible
16 community before the neighboring defense base is closed.

17 (b) The office shall establish criteria and procedures for
18 evaluations of applications for loans under the program.

19 (c) The office shall establish categories of eligible
20 infrastructure projects for which an eligible community may apply
21 for a loan.

22 SECTION 3. Section 151.429(g), Tax Code, is amended to read
23 as follows:

24 (g) The refund provided by this section is conditioned on
25 the enterprise project maintaining at least the same level of
26 employment of qualified employees as existed at the time it
27 qualified for a refund for a period of three years from that date.

1 The comptroller [~~Texas Department of Economic Development~~] shall
2 annually certify [~~to the comptroller~~] whether that level of
3 employment of qualified employees has been maintained. On [~~the~~
4 ~~Texas Department of Economic Development~~] certifying that such a
5 level has not been maintained, the comptroller shall assess that
6 portion of the refund attributable to any such decrease in
7 employment, including penalty and interest from the date of the
8 refund.

9 SECTION 4. Section 151.4291(g), Tax Code, is amended to
10 read as follows:

11 (g) The refund provided by this section is conditioned on
12 the defense readjustment project maintaining at least the same
13 level of employment of qualified employees as existed at the time it
14 qualified for a refund for a period of three years from that date.
15 The comptroller [~~Texas Department of Economic Development~~] shall
16 annually certify to [~~the comptroller and~~] the Legislative Budget
17 Board whether that level of employment of qualified employees has
18 been maintained. On [~~the Texas Department of Economic Development~~]
19 certifying that such a level has not been maintained, the
20 comptroller shall assess that portion of the refund attributable to
21 any such decrease in employment, including penalty and interest
22 from the date of the refund.

23 SECTION 5. Section 151.431, Tax Code, subsections (a), (b)
24 and (c), are amended to read as follows:

25 Section 151.431. Sales and Use Tax Refund for Job
26 Retention. (a) A qualified business operating in the enterprise
27 zone's jurisdiction for at least three consecutive years may apply

1 for and be granted a onetime refund of sales and use tax paid by the
2 qualified business after certification of the qualified business as
3 provided by Subsection (b) of this section to a vendor or directly
4 to the state for the purchase of equipment or machinery sold to the
5 business for use in an enterprise zone if the governing body or
6 bodies certify to the comptroller [~~Texas Department of Economic~~
7 ~~Development~~] that the business is retaining 10 or more jobs held by
8 qualified employees during the year. For the purposes of this
9 subsection "job" means an existing employment position of a
10 qualified business that has provided employment to a qualified
11 employee of at least 1,820 hours annually.

12 (b) Only qualified businesses that have been certified as
13 eligible for a refund under this section by the governing body or
14 bodies to the [~~department and by the department to the~~
15 comptroller, including certification of the number of jobs
16 retained, are entitled to the refund. During each calendar year, no
17 more than three eligible qualified businesses may be certified to
18 the department by a municipality or county, subject to Subsection
19 (c).

20 (c) If a municipality or county sponsors more than one
21 enterprise zone, that municipality or county may certify to the
22 comptroller [~~department~~] only a total of three eligible qualified
23 businesses from all enterprise zones of which it is the governing
24 body or one of the governing bodies and must allocate the three
25 certifications for which it is eligible as evenly as possible among
26 those zones. If an enterprise zone has more than one governing
27 body, it is entitled to only the number of certifications that is

1 equal to the total that all of its governing bodies may allocate to
2 it, but in no case is it entitled to more than three certifications.
3 A certification that must be allocated to a particular zone but
4 would exceed the three allowable to that zone may not be made. The
5 comptroller [~~department~~] by rule may require:

6 (1) multiple governing bodies jointly to certify all
7 or some of the certifications for which a zone is eligible; and

8 (2) governing bodies to follow uniform procedures or
9 selection criteria in selecting the qualified businesses certified
10 to it under this section.

11 SECTION 6. Section 171.501, Tax Code, subsections (a), (b)
12 and (c), are amended to read as follows:

13 Section 171.501. Refund for Job Creation in Enterprise
14 Zone. (a) A corporation that has been certified a qualified
15 business as provided by Chapter 489, Subchapter C [~~2303~~],
16 Government Code may apply for and be granted a refund of franchise
17 tax paid with an initial or annual report if the governing body or
18 bodies certify to the comptroller [~~Texas Department of Economic~~
19 ~~Development~~] that the business has created 10 or more new jobs in
20 its enterprise zone held by qualified employees during the calendar
21 year that contains the end of the accounting period on which the
22 report is based. [~~The Texas Department of Economic Development~~
23 ~~shall certify eligibility for any refund to the comptroller.~~]

24 (b) Only qualified businesses that have been certified as
25 eligible for a refund under this section by the governing body or
26 bodies [~~to the department and by the department~~] to the comptroller
27 are entitled to the refund. During each calendar year, no more than

1 three eligible qualified businesses may be certified to the
2 department by a municipality or county, subject to Subsection (c).

3 (c) If a municipality or county sponsors more than one
4 enterprise zone, that municipality or county may certify to the
5 comptroller [~~department~~] only a total of three eligible qualified
6 businesses from all enterprise zones of which it is the governing
7 body or one of the governing bodies and must allocate the three
8 certifications for which it is eligible as evenly as possible among
9 those zones. If an enterprise zone has more than one governing
10 body, it is entitled to only the number of certifications that is
11 equal to the total that all of its governing bodies may allocate to
12 it, but in no case is it entitled to more than three certifications.
13 A certification that must be allocated to a particular zone but
14 would exceed the three allowable to that zone may not be made. The
15 comptroller [~~department~~] by rule may require:

16 (1) multiple governing bodies jointly to certify all
17 or some of the certifications for which a zone is eligible; and

18 (2) governing bodies to follow uniform procedures or
19 selection criteria in selecting the qualified businesses certified
20 to it under this section.

21 SECTION 7. The following laws are repealed: (1) Section
22 43.412, Government Code; (2) Section 481.023(c), Government Code;
23 (3) Subchapters BB and N, Chapter 481, Government Code; (4) Chapter
24 486, Government Code; (5) Chapter 2303, Government Code; (6)
25 Chapter 2310, Government Code; and (7) Section 4 and Section 24,
26 Subsections (a), (b) and (c), Development Corporation Act of 1979
27 (Article 5190.6, Vernon's Texas Civil Statutes).

1 SECTION 8. Section 481.194(b), Government Code, is
2 repealed.

3 SECTION 9. Section 481.003, Government Code, is amended to
4 read as follows:

5 Sec. 481.003. SUNSET PROVISION. The Texas Department of
6 Economic Development is subject to Chapter 325 (Texas Sunset Act).
7 Unless continued in existence as provided by that chapter, the
8 department is abolished and this chapter expires September 1, 2012
9 [~~2003~~].

10 SECTION 10. This Act takes effect September 1, 2003.