

By: Keffer of Eastland

H.B. No. 3549

Substitute the following for H.B. No. 3549:

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C.S.H.B. No. 3549

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment, operation, and funding of the Texas
3 Economic Development Bank and to the administration and operation
4 of the product development, small business incubator, and
5 enterprise zone programs.

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

7 SECTION 1. Section 481.001, Government Code, is amended by
8 adding Subdivision (5) to read as follows:

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

10 SECTION 2. Section 481.025, Government Code, is amended to
11 read as follows:

12 Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY
13 PROGRAM. The department or its successor is the agency of this
14 state responsible for administering the Empowerment Zone and
15 Enterprise Community grant program in this state. The bank
16 [~~department~~] shall cooperate with appropriate federal and local
17 agencies as necessary to administer the grant program.

18 SECTION 3. Section 481.191, Government Code, is amended by
19 amending Subdivision (2) and adding Subdivision (4-a) to read as
20 follows:

21 (2) "Eligible borrower" means:

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

1 (B) a nonprofit corporation; or

2 (C) a child-care provider.

3 (4-a) "Medium-sized business" means a corporation,
4 partnership, sole proprietorship, or other legal entity that:

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

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

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

10 SECTION 4. Sections 481.193(a), (d), (e), (f), (h), and
11 (i), Government Code, are amended to read as follows:

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

14 (1) small businesses in enterprise zones;

15 (2) historically underutilized businesses;

16 (3) medium-sized businesses;

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

19 (5) [~~4~~] quality, affordable child-care services in
20 this state.

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

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

1 (f) After reviewing each linked deposit loan application,
2 the executive director of the department or the department's
3 successor shall approve or deny [~~recommend to the comptroller the~~
4 ~~acceptance or rejection of~~] the application.

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

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

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

16 (3) [~~(2)~~] in the event of a default the comptroller
17 may withdraw the linked deposit at the direction of the bank.

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

21 SECTION 5. Section 481.193(g), Government Code, as amended
22 by Chapters 891, 1162, and 1423, Acts of the 75th Legislature,
23 Regular Session, 1997, is reenacted and amended to read as follows:

24 (g) After the executive director's approval [~~comptroller's~~
25 ~~acceptance~~] of the application and after the lending institution
26 originates a loan to an eligible borrower, the bank shall authorize
27 the comptroller to [~~shall~~] place a linked deposit with the

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

12 SECTION 6. Section 481.198, Government Code, is amended to
13 read as follows:

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

18 (b) Not later than January 1 of each odd-numbered year, the
19 department or its successor shall prepare and deliver to the
20 governor, lieutenant governor, speaker of the house of
21 representatives, and clerks of the standing committees of the
22 senate and house of representatives with primary jurisdiction over
23 commerce and economic development a report concerning the bank's
24 [~~department's~~] efforts in promoting the linked deposit program
25 during the preceding two years.

26 SECTION 7. Subchapter N, Chapter 481, Government Code, is
27 amended by adding Section 481.199 to read as follows:

1 Sec. 481.199. REPORTS; AUDITS. (a) The department or its
2 successor shall submit to the comptroller a quarterly report
3 regarding the linked deposit program.

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

6 SECTION 8. Section 481.401(9), Government Code, is amended
7 to read as follows:

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

13 SECTION 9. Sections 481.402(b) and (c), Government Code,
14 are amended to read as follows:

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

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

22 SECTION 10. Section 481.404, Government Code, is amended to
23 read as follows:

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

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

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

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

9 (4) impose and collect fees and charges in connection
10 with any transaction and provide for reasonable penalties for
11 delinquent payment of fees or charges.

12 SECTION 11. Sections 481.405(a), (b), (c), and (d),
13 Government Code, are amended to read as follows:

14 (a) The bank [~~department~~] shall establish a capital access
15 program to assist a participating financial institution in making
16 loans to businesses and nonprofit organizations that face barriers
17 in accessing capital.

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

23 (c) The bank [~~department~~] shall determine the eligibility
24 of a financial institution to participate in the program and may set
25 a limit on the number of eligible financial institutions that may
26 participate in the program.

27 (d) To participate in the program, an eligible financial

1 institution must enter into a participation agreement with the bank
2 [~~department~~] that sets out the terms and conditions under which the
3 bank [~~department~~] will make contributions to the institution's
4 reserve account and specifies the criteria for a loan to qualify as
5 a capital access loan.

6 SECTION 12. Sections 481.407(a), (b), and (d), Government
7 Code, are amended to read as follows:

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

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

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

18 (3) [~~refinancing of existing loans not originally~~
19 ~~enrolled under this subchapter, or~~

20 [~~4~~] inside bank transactions, as defined by the
21 policy board.

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

26 SECTION 13. Section 481.408, Government Code, is amended by
27 amending Subsections (a), (c), and (d) and adding Subsection (e) to

1 read as follows:

2 (a) On approval by the bank [~~department~~] and after entering
3 into a participation agreement with the bank [~~department~~], a
4 participating financial institution making a capital access loan
5 shall establish a reserve account. The reserve account shall be
6 used by the institution only to cover any losses arising from a
7 default of a capital access loan made by the institution under this
8 subchapter or as otherwise provided by this subchapter.

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

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

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

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

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

27 (2) an amount equal to 150 percent of the total amount

1 deposited under Subsection (b) for each loan if the institution is
2 not described by Subdivision (1); or

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

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

10 (B) the borrower is a small or medium-size
11 business or a nonprofit organization that operates or proposes to
12 operate a day-care center or a group day-care home, as those terms
13 are defined by Section 42.002, Human Resources Code.

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

16 SECTION 14. Section 481.409, Government Code, is amended to
17 read as follows:

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

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

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

27 (A) the borrower is financing an enterprise

1 project or is located in or financing a project, activity, or
2 enterprise in an area designated as an enterprise zone under
3 Chapter 2303; or

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

8 (2) six percent of the loan amount for any other
9 borrower.

10 SECTION 15. Sections 481.410(b)-(d), Government Code, are
11 amended to read as follows:

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

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

25 (d) The bank [~~department~~] shall withdraw from the
26 institution's reserve account the total amount in the account and
27 any interest earned on the account and deposit the amount in the

1 fund when:

2 (1) a financial institution is no longer eligible to
3 participate in the program or a participation agreement entered
4 into under this subchapter expires without renewal by the bank
5 [~~department~~] or institution;

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

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

10 (4) the financial institution fails to submit a report
11 or other document requested by the bank within the time or in the
12 manner prescribed.

13 SECTION 16. Section 481.411, Government Code, is amended to
14 read as follows:

15 Sec. 481.411. ANNUAL REPORT. A participating financial
16 institution shall submit an annual report to the bank [~~department~~].

17 The report must:

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

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

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

27 (4) include information regarding the type and size of

1 businesses and nonprofit organizations with capital access loans.

2 SECTION 17. Section 481.412(a), Government Code, is amended
3 to read as follows:

4 (a) The department or its successor shall submit to the
5 legislature an annual status report on the program's activities.

6 SECTION 18. Section 481.414, Government Code, is amended to
7 read as follows:

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

11 SECTION 19. Subtitle F, Title 4, Government Code, is
12 amended by adding Chapter 489 to read as follows:

13 CHAPTER 489. TEXAS ECONOMIC DEVELOPMENT BANK

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 489.001. DEFINITIONS. In this chapter:

16 (1) "Bank" means the Texas Economic Development Bank
17 established under Section 489.101.

18 (2) "Department" means the Texas Department of
19 Economic Development.

20 (3) "Fund" means the Texas economic development bank
21 fund.

22 Sec. 489.002. RULES. The department or its successor shall
23 adopt rules necessary to carry out the purposes of this chapter.

24 [Sections 489.003-489.100 reserved for expansion]

25 SUBCHAPTER B. CREATION AND OPERATION OF BANK; TEXAS ECONOMIC

26 DEVELOPMENT BANK FUND

27 Sec. 489.101. CREATION OF BANK. (a) The department or its

1 successor shall establish the Texas Economic Development Bank for
2 the purpose of:

3 (1) providing globally competitive, cost-effective
4 state incentives to expanding businesses operating in this state
5 and businesses relocating to this state; and

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

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

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

16 (b) The bank may:

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

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

21 (B) incentives to lenders to:

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

24 (ii) make low-interest loans to qualifying
25 businesses; and

26 (C) bond-based long-term debt financing for
27 capital investment in public entities, in large commercial and

1 industrial projects, and for other economic development purposes;

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

4 (3) inform institutional lenders of economic
5 development plans and strategies for each region of this state and
6 encourage institutional lenders to support these plans in their
7 marketing and investment strategies;

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

10 (5) provide communities with technical assistance in
11 the development of their incentive programs to attract and retain
12 businesses and in the design of incentive packages for specific
13 proposals; and

14 (6) provide expanding businesses or businesses
15 relocating to this state with a single source of information
16 concerning financial incentives offered by this state to those
17 businesses.

18 Sec. 489.103. FEES. The bank shall charge fees to the
19 beneficiaries of its services as the bank determines necessary.
20 Amounts collected under this section may be used to support the
21 administration of the bank's programs and implementation of the
22 bank's strategies.

23 Sec. 489.104. ALLOCATION OF RESOURCES. The bank may
24 allocate its resources as necessary to efficiently meet the level
25 of demand experienced by each program or service described by
26 Section 489.108.

27 Sec. 489.105. TEXAS ECONOMIC DEVELOPMENT BANK FUND. (a)

1 The Texas economic development bank fund is a dedicated account in
2 the general revenue fund.

3 (b) The fund consists of:

4 (1) appropriations for the implementation and
5 administration of this chapter;

6 (2) investment earnings under the capital access fund
7 established under Section 481.402;

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

9 (4) interest earned on the investment of money in the
10 fund;

11 (5) fees charged under this chapter;

12 (6) investment earnings from the programs
13 administered by the bank;

14 (7) amounts transferred from Section 2303.504(b), as
15 amended by Article 2, Chapter 1134, Acts of the 77th Legislature,
16 Regular Session, 2001;

17 (8) investment earnings under the Texas product
18 development fund under Section 489.211;

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

21 (10) any other amounts received by the state under
22 this chapter.

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

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

27 Sec. 489.106. ADMINISTRATION OF FUND AND CHAPTER. The

1 department or its successor shall administer the fund. In
2 administering the fund and this chapter, the department or its
3 successor has the powers necessary to carry out the purposes of this
4 chapter, including the power to:

5 (1) make, execute, and deliver contracts,
6 conveyances, and other instruments;

7 (2) impose and collect fees and charges in connection
8 with any transaction and provide for reasonable penalties for
9 delinquent payments or performance; and

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

14 Sec. 489.107. ANNUAL REPORT. On or before January 1 of each
15 year, the department or its successor shall submit to the
16 legislature an annual status report on the activities of the bank.

17 Sec. 489.108. PROGRAMS, SERVICES, AND FUNDS UNDER BANK'S
18 DIRECTION. Notwithstanding any other law, the bank shall perform
19 the duties and functions of the department or its successor with
20 respect to the following programs, services, and funds:

21 (1) the Texas small business industrial development
22 corporation established under Section 4, Development Corporation
23 Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes);

24 (2) the capital access program established under
25 Section 481.405;

26 (3) the Texas leverage fund;

27 (4) the linked deposit program established under

1 Section 481.193;

2 (5) the enterprise zone program established under
3 Chapter 2303;

4 (6) the industrial revenue bond program;

5 (7) the defense economic readjustment zone program
6 established under Chapter 2310;

7 (8) the Empowerment Zone and Enterprise Community
8 program established under Section 481.025; and

9 (9) the renewal community program.

10 [Sections 489.109-489.150 reserved for expansion]

11 SUBCHAPTER C. MISCELLANEOUS PROVISIONS

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

16 Sec. 489.152. GIFTS, GRANTS, AND DONATIONS. The department
17 or its successor may accept gifts, grants, and donations from any
18 source for the purposes of this chapter.

19 [Sections 489.153-489.200 reserved for expansion]

20 SUBCHAPTER D. PRODUCT DEVELOPMENT AND SMALL

21 BUSINESS INCUBATORS

22 Sec. 489.201. DEFINITIONS. In this subchapter:

23 (1) "Board" means the Product Development and Small
24 Business Incubator Board.

25 (2) "Department" includes the designee of the
26 department or its successor.

27 (3) "Financing" means a loan, loan guarantee, or

1 equity investment from the product fund to a person for use in the
2 development and production of a product in this state, or a grant,
3 loan, or loan guarantee from the small business fund to a person for
4 use in the development of a small business in this state.

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

10 (5) "Product fund" means the Texas product development
11 fund.

12 (6) "Program" means the product development program or
13 the small business incubator program.

14 (7) "Small business fund" means the Texas small
15 business incubator fund.

16 Sec. 489.202. PRODUCT DEVELOPMENT AND SMALL BUSINESS
17 INCUBATOR BOARD. (a) The Product Development and Small Business
18 Incubator Board is created in the department or its successor.

19 (b) The bank administers the programs, the product fund, and
20 the small business fund.

21 Sec. 489.203. MEMBERS OF THE BOARD; APPOINTMENT; TERMS OF
22 OFFICE. (a) The board consists of nine persons appointed by the
23 governor.

24 (b) In appointing members of the board, the governor shall
25 appoint:

26 (1) three persons having significant business
27 leadership experience in technology, particularly experience with

1 the transfer of research results into commercial applications;

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

5 (3) two persons experienced and knowledgeable in
6 structuring and providing financing for technological products or
7 businesses; and

8 (4) two persons who reside in a county of this state
9 with above state average unemployment and below state average per
10 capita income and who have experience and knowledge in
11 technology-related business growth.

12 (c) Appointed members of the board serve two-year staggered
13 terms with the terms of three members expiring February 1 of each
14 odd-numbered year.

15 (d) The governor shall appoint the presiding officer of the
16 board.

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

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

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

26 (1) cannot because of illness or disability discharge
27 the member's duties for a substantial part of the term for which the

1 member is appointed; or

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

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

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

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

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

16 (2) the programs operated by the board;

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

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

20 (5) the current budget for the board;

21 (6) the results of the most recent formal audit of the
22 board;

23 (7) the requirements of the:

24 (A) open meetings law, Chapter 551;

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

26 (C) administrative procedure law, Chapter 2001;

27 (8) the requirements of the conflict of interest laws

1 and other laws relating to public officials; and

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

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

7 (b) The board shall develop and implement policies that
8 provide the public with a reasonable opportunity to appear before
9 the board and to speak on any issue under the jurisdiction of the
10 board.

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

13 Sec. 489.207. APPLICABILITY OF OPEN MEETINGS LAW AND
14 ADMINISTRATIVE PROCEDURE LAW. The board is subject to the open
15 meetings law, Chapter 551, and the administrative procedure law,
16 Chapter 2001.

17 Sec. 489.208. STAFF. (a) The employees of the department
18 or its successor selected by the executive director of the
19 department or its successor for that purpose serve as the staff of
20 the board.

21 (b) The executive director of the department or its
22 successor shall select and supervise the staff of the board and
23 perform other duties delegated to the department or its successor
24 by the board.

25 (c) The executive director of the department or its
26 successor shall provide to members of the board and to board staff,
27 as often as necessary, information regarding their qualifications

1 for office or employment under this subchapter and their
2 responsibilities under applicable laws relating to standards of
3 conduct for state officers or employees.

4 (d) The board shall develop and implement policies that
5 clearly separate the policy-making responsibilities of the board
6 and the management responsibilities of the department or its
7 successor, the bank, and the executive director of the department
8 or its successor.

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

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

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

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

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

25 Sec. 489.211. TEXAS PRODUCT DEVELOPMENT FUND. (a) The
26 Texas product development fund is a revolving fund in the state
27 treasury.

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

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

27 Sec. 489.212. SMALL BUSINESS INCUBATOR FUND. (a) The Texas

1 small business incubator fund is a revolving fund in the state
2 treasury.

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

20 (c) Money in the project account of the small business fund,
21 minus the costs of issuance of bonds under this subchapter and
22 necessary costs of administering the small business fund, may be
23 used only to provide financing to foster and stimulate the
24 development of small businesses in this state. The bank shall
25 provide financing from the small business fund on the terms and
26 conditions that the bank determines to be reasonable, appropriate,
27 and consistent with the purposes and objectives of the small

1 business fund and this subchapter, for the purpose of fostering and
2 stimulating the development of new or existing small businesses in
3 this state.

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

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

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

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

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

18 (3) applicants that have acquired other sources of
19 financing;

20 (4) companies formed in this state and receiving
21 assistance from designated state small business development
22 centers; or

23 (5) applicants who are residents of this state doing
24 business in this state and performing financed activities
25 predominantly in this state.

26 (c) The board shall adopt rules governing the terms and
27 conditions of the financing, specifically including requirements

1 for appropriate security or collateral, equity interest, and the
2 rights and remedies of the board and bank in the event of a default
3 on the loan. The rules must include a requirement that applicants
4 report to the bank on the use of money distributed through the
5 product fund or small business fund.

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

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

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

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

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

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

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

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

3 (1) information regarding:

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

6 (B) the applicant's present markets and market
7 prospects; and

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

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

13 (3) if applicable, documentation of attempts to obtain
14 private financing.

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

17 (1) the product or business for which financing is
18 requested is economically sound;

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

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

23 (4) the applicant has the management resources and
24 other funding to complete the project;

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

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

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

7 Sec. 489.215. INFORMATION CONFIDENTIAL. (a) Information
8 described by Subsection (b) collected, assembled, or maintained by
9 or for the bank is confidential and may not be disclosed by the
10 bank, the board, the department or its successor, or the executive
11 director of the department or its successor.

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

1 relating to the receipt or expenditure of public funds by the bank,
2 board, or the department or its successor under this subchapter.

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

10 Sec. 489.216. PROGRAM COORDINATION. The bank and the
11 department or its successor shall coordinate the administration and
12 funding of the programs.

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

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

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

24 (1-a) "Block group" has the meaning assigned by the
25 Bureau of the Census of the United States Department of Commerce.

26 (1-b) "Day" means the period between 8 a.m. and 5 p.m.
27 of a day other than a Saturday, Sunday, or state or federal holiday.

1 (3-a) "Governing body of an enterprise zone" means the
2 governing body of a municipality or county in which an enterprise
3 zone is located.

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

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

11 SECTION 21. Sections 2303.051, 2303.052, 2303.053, and
12 2303.054, Government Code, are amended to read as follows:

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

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

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

1 (c) The department or its successor shall adopt rules
2 necessary to carry out the purposes of this chapter.

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

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

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

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

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

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

18 (3) suggests legislation.

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

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

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

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

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

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

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

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

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

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

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

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

1 assistance, transportation, and employment training programs;

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

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

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

11 SECTION 22. Section 2303.101, Government Code, is amended
12 to read as follows:

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

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

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

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

27 [~~(B) an area, not to exceed 20 square miles, that~~

1 ~~is equal to five percent of the area, excluding lakes, waterways,~~
2 ~~and transportation arteries, of the municipality, county, or~~
3 ~~combination of municipalities or counties nominating the area as an~~
4 ~~enterprise zone,~~

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

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

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

14 SECTION 23. Section 2303.109, Government Code, is amended
15 to read as follows:

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

27 (b) Notwithstanding Subsection (a), an area designated as a

1 federal enterprise zone, federal empowerment zone, federal renewal
2 community, or federal enterprise community may be designated as an
3 enterprise zone without further qualification for [~~longer than~~
4 ~~seven years but~~] not longer than the period permitted for the
5 respective designation by federal law.

6 SECTION 24. The heading of Subchapter D, Chapter 2303,
7 Government Code, is amended to read as follows:

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

9 SECTION 25. Section 2303.201, Government Code, is amended
10 to read as follows:

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

16 SECTION 26. Section 2303.204, Government Code, is amended
17 to read as follows:

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

- 22 (1) the bank or the department or its successor;
- 23 (2) [~~the administrative authority, if one exists,~~
- 24 [~~(3)~~] an enterprise project; and
- 25 (3) [~~(4)~~] other entities in an enterprise zone or
26 affected by an [~~the~~] enterprise project, including a qualified
27 business, within the jurisdiction of the nominating governmental

1 entity [~~zone~~].

2 SECTION 27. Sections 2303.205(a) and (c), Government Code,
3 are amended to read as follows:

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

8 (c) The report must include for the year preceding the date
9 of the report:

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

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

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

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

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

26 SECTION 28. Section 2303.401, Government Code, is amended
27 to read as follows:

1 Sec. 2303.401. DEFINITIONS [~~DEFINITION~~]. In this
2 subchapter:

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

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

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

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

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

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

23 SECTION 29. Section 2303.402(a), Government Code, is
24 amended to read as follows:

25 (a) A person is a qualified business if the bank
26 [~~department~~], for the purpose of state benefits under this chapter,
27 or the nominating [~~governing~~] body of a project or activity of the

1 person under this chapter [~~an enterprise zone~~], for the purpose of
2 local incentives [~~benefits~~], certifies that:

3 (1) the person is engaged in or has provided
4 substantial commitment to initiate the active conduct of a trade or
5 business in an [~~the~~] enterprise zone, [+] and

6 [~~(2)~~] at least 25 percent of the person's new employees
7 in the enterprise zone are:

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

11 (B) economically disadvantaged individuals; or

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

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

19 (B) individuals who are economically
20 disadvantaged.

21 SECTION 30. Sections 2303.403 and 2303.404, Government
22 Code, are amended to read as follows:

23 Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS
24 CERTIFICATION. If the bank [~~department~~] determines that the
25 governing body eligible to nominate [~~of~~] an enterprise project
26 [~~zone~~] is not complying with this chapter, the bank [~~department~~]
27 shall prohibit the certification of a qualified business [~~in the~~]

1 ~~zone]~~ until the bank [~~department]~~ determines that the governing
2 body is complying with this chapter. The bank [~~department]~~ may not
3 designate more than 85 businesses as enterprise projects during any
4 biennium.

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

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

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

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

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

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

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

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

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

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

6 SECTION 31. Section 2303.405, Government Code, is amended
7 by amending Subsections (a), (b), and (c) and adding Subsection (f)
8 to read as follows:

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

17 (b) An application must [+

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

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

26 [~~(3)]~~ contain an economic analysis of the plans of the
27 qualified business for expansion, revitalization, or other

1 activity with regard to the enterprise project [~~in the enterprise~~
2 ~~zone~~], including:

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

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

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

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

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

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

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

27 (c) For the purposes of this section, local effort to

1 develop and revitalize a municipality or county [~~an enterprise~~
2 ~~zone~~] is:

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

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

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

19 SECTION 32. Subchapter F, Chapter 2303, Government Code, is
20 amended by adding Sections 2303.4051 and 2303.4052 to read as
21 follows:

22 Sec. 2303.4051. ORDINANCE OR ORDER FOR IDENTIFICATION OF
23 LOCAL INCENTIVES. (a) In this section, "local incentive" means
24 each tax incentive, grant, other financial incentive or benefit, or
25 program to be provided by the governing body to business
26 enterprises in the block group and any other local incentive listed
27 in Section 2303.511.

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

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

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

11 (c) The ordinance or order must:

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

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

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

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

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

27 (f) If the nominating body has previously nominated a

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

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

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

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

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

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

26 (1) a certified copy of the ordinance or order, as
27 appropriate, or reference to an ordinance or order as required by

1 Section 2303.4051;

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

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

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

11 SECTION 33. Section 2303.406, Government Code, is amended
12 to read as follows:

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

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

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

27 (3) the designation will contribute significantly to

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

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

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

7 (B) the business will close down permanently;

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

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

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

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

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

20 (b) This subsection does not apply to a qualified business
21 located in a federally designated zone, which will receive priority
22 designation in allocating the number of enterprise projects allowed
23 statewide per biennium as provided by Section 2303.403. The bank
24 [~~department~~] shall designate qualified businesses as enterprise
25 projects on a competitive basis. The bank [~~department~~] shall
26 [~~establish a minimum scoring threshold that must be met by the~~
27 ~~qualified business applying for a project designation and~~] make its

1 designation decisions using a weighted scale in which:

2 (1) 40 [~~50~~] percent of the evaluation depends on the
3 economic distress of [~~+~~

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

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

8 (2) 25 percent of the evaluation depends on the local
9 effort to achieve development and revitalization of the block group
10 in which a proposed enterprise project is located [~~enterprise~~
11 ~~zone~~]; and

12 (3) 35 [~~25~~] percent of the evaluation depends on the
13 evaluation criteria as determined by the bank [~~department~~], which
14 must include:

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

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

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

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

27 (1) four, plus two additional bonus projects the bank

1 ~~[department]~~ may award in a municipality or county with a
2 population of less than 250,000; or

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

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

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

18 SECTION 34. Section 2303.407, Government Code, as amended
19 by Article 1, Chapter 1134, Acts of the 77th Legislature, Regular
20 Session, 2001, is amended to read as follows:

21 Sec. 2303.407. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.
22 (a) The bank ~~[When the department designates a business as an~~
23 ~~enterprise project, the department]~~ shall allocate to an enterprise
24 [the] project the maximum number of new permanent jobs or retained
25 jobs eligible based on the amount of capital investment made in the
26 project and the refund per job with a maximum refund to be included
27 in a computation of a tax refund for the project.

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

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

5 (2) \$400,000 to \$999,999 will result in a refund of up
6 to \$2,500 per job with a maximum refund of \$62,500 for the creation
7 or retention of 25 jobs;

8 (3) \$1,000,000 to \$4,999,999 will result in a refund
9 of up to \$2,500 per job with a maximum refund of \$312,500 for the
10 creation or retention of 125 jobs;

11 (4) \$5,000,000 to \$149,999,999 will result in a refund
12 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
13 creation or retention of 250 jobs;

14 (5) \$150,000,000 to \$249,999,999 will result in a
15 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
16 for the creation or retention of 500 jobs; or

17 (6) \$250,000,000 or more will result in a refund of up
18 to \$7,500 per job with a maximum refund of \$3,750,000 for the
19 creation or retention of 500 jobs.

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

23 (d) A capital investment in the range amount and the
24 creation or retention of the number of jobs described by Subsection
25 (b)(6) is considered a triple jumbo enterprise project. [The
26 number may not exceed 250 or a number equal to 110 percent of the
27 number of anticipated new permanent jobs or retained jobs specified

1 ~~in the application for designation of the business as an enterprise~~
2 ~~project under Section 2303.405, whichever is less.]~~

3 SECTION 35. Section 2303.407, Government Code, as amended
4 by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular
5 Session, 2001, is amended to read as follows:

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

7 (a) The bank ~~[When the department designates a business as an~~
8 ~~enterprise project, the department]~~ shall allocate to an enterprise
9 [the] project the maximum number of new permanent jobs or retained
10 jobs eligible based on the amount of capital investment made in the
11 project and the refund per job with a maximum refund to be included
12 in a computation of a tax refund for the project.

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

14 (1) \$40,000 to \$399,999 will result in a refund of up
15 to \$2,500 per job with a maximum refund of \$25,000 for the creation
16 or retention of 10 jobs;

17 (2) \$400,000 to \$999,999 will result in a refund of up
18 to \$2,500 per job with a maximum refund of \$62,500 for the creation
19 or retention of 25 jobs;

20 (3) \$1,000,000 to \$4,999,999 will result in a refund
21 of up to \$2,500 per job with a maximum refund of \$312,500 for the
22 creation or retention of 125 jobs;

23 (4) \$5,000,000 to \$149,999,999 will result in a refund
24 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
25 creation or retention of 250 jobs;

26 (5) \$150,000,000 to \$249,999,999 will result in a
27 refund of up to \$5,000 per job with a maximum refund of \$2,500,000

1 for the creation or retention of 500 jobs; or

2 (6) \$250,000,000 or more will result in a refund of up
3 to \$7,500 per job with a maximum refund of \$3,750,000 for the
4 creation or retention of 500 jobs.

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

8 (d) A capital investment in the range amount and the
9 creation or retention of the number of jobs described by Subsection
10 (b)(6) is considered a triple jumbo enterprise project. [The
11 number may not exceed 625 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 an enterprise
14 project under Section 2303.405, whichever is less.]

15 SECTION 36. Subchapter F, Chapter 2303, Government Code, is
16 amended by adding Sections 2303.4071 and 2303.4072 to read as
17 follows:

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

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

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

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

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

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

6 SECTION 37. Section 2303.408, Government Code, is amended
7 to read as follows:

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

16 SECTION 38. Section 2303.501(a), Government Code, is
17 amended to read as follows:

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

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

25 SECTION 39. Sections 2303.502(b) and (c), Government Code,
26 are amended to read as follows:

27 (b) Annually each state agency shall:

1 (1) review the rules it administers that:

2 (A) may adversely affect:

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

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

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

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

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

14 SECTION 40. Sections 2303.504(b) and (c), Government Code,
15 as amended by Article 1, Chapter 1134, Acts of the 77th Legislature,
16 Regular Session, 2001, are amended to read as follows:

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

25 (c) Not later than the 60th day after the last day of each
26 fiscal year, the comptroller shall report to the bank [~~department~~]
27 the statewide total of actual jobs created, actual jobs retained,

1 and the tax refunds and credits made under this section during that
2 fiscal year.

3 SECTION 41. Sections 2303.504(b) and (c), Government Code,
4 as amended by Article 2, Chapter 1134, Acts of the 77th Legislature,
5 Regular Session, 2001, are amended to read as follows:

6 (b) At the time of receipt of any tax benefit available as a
7 result of participating in the enterprise zone program, including a
8 state sales and use tax refund or franchise tax credit, three
9 percent of the amount of the tax benefit shall be transferred to the
10 Texas economic development bank fund under Subchapter B, Chapter
11 489, to defray the cost of administering this chapter [~~Subject to~~
12 ~~Section 2303.516, a qualified business is entitled to a refund of~~
13 ~~state taxes under Sections 151.431 and 171.501, Tax Code].~~

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

18 SECTION 42. Sections 2303.513(a) and (b), Government Code,
19 are amended to read as follows:

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

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

24 or

25 (2) [~~selling the land to a neighborhood enterprise~~
26 ~~association, or~~

27 [~~3~~] establishing an urban homestead program

1 described by Subsection (c).

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

12 SECTION 43. Section 2303.516, Government Code, is amended
13 to read as follows:

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

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

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

26 (2) the business or project has substantially failed
27 to follow through on any commitments made by it or on its behalf

1 under this chapter.

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

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

14 SECTION 44. Subchapter G, Chapter 2303, Government Code, is
15 amended by adding Section 2303.517 to read as follows:

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

20 SECTION 45. Section 2310.001, Government Code, is amended
21 by amending Subdivision (1) and adding Subdivision (1-a) to read as
22 follows:

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

25 (1-a) "Defense worker" means:

26 (A) an employee of the United States Department
27 of Defense, including a member of the armed forces and a government

1 civilian worker;

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

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

8 (D) an employee or private contractor employed by
9 the United States Department of Energy working on a defense or
10 department of energy facility in support of a department of defense
11 related project.

12 SECTION 46. Section 2310.051, Government Code, is amended
13 to read as follows:

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

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

20 (c) The department or its successor shall adopt rules
21 necessary to carry out the purposes of this chapter.

22 SECTION 47. Section 2310.052, Government Code, is amended
23 to read as follows:

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

27 (b) On or before December 1 of each year, the department or

1 its successor shall submit to the governor, the legislature, and
2 the Legislative Budget Board a report that:

3 (1) evaluates the effectiveness of the readjustment
4 zone program;

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

7 (3) suggests legislation, as appropriate.

8 SECTION 48. Section 2310.053, Government Code, is amended
9 to read as follows:

10 Sec. 2310.053. ASSISTANCE. (a) The bank [~~department~~]
11 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 bank [~~department~~] shall provide to persons desiring
21 to locate and engage in business in a readjustment zone information
22 and 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 bank [~~department~~] shall publicize existing tax
27 incentives and economic development programs in readjustment

1 zones.

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

6 SECTION 49. Section 2310.054, Government Code, is amended
7 to read as follows:

8 Sec. 2310.054. COORDINATION WITH OTHER GOVERNMENTAL
9 ENTITIES. (a) In cooperation with the appropriate units of local
10 government and other state agencies, the bank [~~department~~] shall
11 coordinate and streamline state business assistance programs and
12 permit or license application procedures for businesses in
13 readjustment zones.

14 (b) The bank [~~department~~] shall work with the responsible
15 state and federal agencies to coordinate readjustment zone programs
16 with other programs carried out in a readjustment zone, including
17 housing, community and economic development, small business,
18 banking, financial assistance, transportation, and employment
19 training programs.

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

23 SECTION 50. Section 2310.102, Government Code, is amended
24 to read as follows:

25 Sec. 2310.102. ADVERSELY AFFECTED DEFENSE-DEPENDENT
26 COMMUNITY. A municipality or county is an adversely affected
27 defense-dependent community if the bank [~~department~~] determines

1 that:

2 (1) the municipality or county requires assistance
3 because of:

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

6 (B) the cancellation or termination of a United
7 States Department of Defense contract or the failure of the
8 department of defense to proceed with an approved major weapon
9 system program;

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

13 (D) the closure or a significant reduction of the
14 operations of a defense facility as the result of a merger,
15 acquisition, or consolidation of a defense contractor operating the
16 facility; and

17 (2) the municipality or county is expected to
18 experience, during the period between the beginning of the federal
19 fiscal year during which an event described by Subdivision (1) is
20 finally approved and the date that the event is to be substantially
21 completed, a direct loss of:

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

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

1 (C) one percent of the civilian jobs in the
2 municipality or county.

3 SECTION 51. Sections 2310.105(a) and (b), Government Code,
4 are amended to read as follows:

5 (a) For an area to be designated as a readjustment zone, the
6 nominating body, after nominating the area as a readjustment zone,
7 must send to the bank [~~department~~] a written application for
8 designation of the area as a readjustment zone.

9 (b) The application must include:

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

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

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

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

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

24 (6) an estimate of the economic impact of the
25 designation of the area as a readjustment zone on the revenues of
26 the governmental entity or entities nominating the area as a
27 readjustment zone, considering all the financial incentives and

1 benefits and the programs contemplated;

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

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

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

10 (10) a description of the administrative authority, if
11 one is to be appointed for the readjustment zone under Section
12 2310.202; and

13 (11) any additional information the bank [~~department~~]
14 requires.

15 SECTION 52. Section 2310.106, Government Code, is amended
16 to read as follows:

17 Sec. 2310.106. REVIEW OF APPLICATION. (a) On receipt of an
18 application for the designation of a readjustment zone, the bank
19 [~~department~~] shall review the application to determine if the
20 nominated area qualifies for designation as a readjustment zone
21 under this chapter.

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

27 SECTION 53. Sections 2310.107(a), (c), and (d), Government

1 Code, are amended to read as follows:

2 (a) If the bank [~~department~~] determines that a nominated
3 area for which a designation application has been received
4 satisfies the criteria under Section 2310.101, the bank
5 [~~department~~] shall negotiate with the nominating body for a
6 designation agreement.

7 (c) The bank [~~department~~] shall complete the negotiations
8 and sign the agreement not later than the 60th day after the date on
9 which the application is received unless the bank [~~department~~]
10 extends that period to the 90th day after the date on which the
11 application was received.

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

16 SECTION 54. Section 2310.108, Government Code, is amended
17 to read as follows:

18 Sec. 2310.108. DENIAL OF APPLICATION; NOTICE. (a) The bank
19 [~~department~~] may deny an application for the designation of a
20 readjustment zone only if the bank [~~department~~] determines that the
21 nominated area does not satisfy the criteria under Section
22 2310.101.

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

26 SECTION 55. Section 2310.110(e), Government Code, is
27 amended to read as follows:

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

7 SECTION 56. Section 2310.111(a), Government Code, is
8 amended to read as follows:

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

11 (1) the area no longer meets the criteria for
12 designation under this chapter or by [~~department~~] rule of the
13 department or its successor adopted under this chapter; or

14 (2) the bank [~~department~~] determines that the
15 governing body of the readjustment zone has not complied with
16 commitments made in the ordinance or order nominating the area as a
17 readjustment zone.

18 SECTION 57. Section 2310.203, Government Code, is amended
19 to read as follows:

20 Sec. 2310.203. LIAISON. The governing body of a
21 readjustment zone shall designate a liaison to communicate and
22 negotiate with:

- 23 (1) the bank [~~department~~];
24 (2) the administrative authority, if one exists;
25 (3) a defense readjustment project; and
26 (4) other entities in or affected by the readjustment
27 zone.

1 SECTION 58. Section 2310.204(a), Government Code, is
2 amended to read as follows:

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

6 SECTION 59. Section 2310.302(a), Government Code, is
7 amended to read as follows:

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

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

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

17 (A) residents of the governing jurisdiction;

18 (B) economically disadvantaged individuals, as
19 defined by Section 2303.402(c); or

20 (C) dislocated defense workers.

21 SECTION 60. Sections 2310.303 and 2310.304, Government
22 Code, are amended to read as follows:

23 Sec. 2310.303. PROHIBITION ON QUALIFIED BUSINESS
24 CERTIFICATION. If the bank [~~department~~] determines that the
25 governing body of a readjustment zone is not complying with this
26 chapter, the bank [~~department~~] shall prohibit the certification of
27 a qualified business in the zone until the bank [~~department~~]

1 determines that the governing body is complying with this chapter.
2 The bank [~~department~~] may not designate more than two businesses in
3 a single readjustment zone as defense readjustment projects.

4 Sec. 2310.304. REQUEST FOR APPLICATION FOR DEFENSE
5 READJUSTMENT PROJECT DESIGNATION. A qualified business in a
6 readjustment zone may request that the governing body of the
7 readjustment zone apply to the bank [~~department~~] for designation of
8 the business as a defense readjustment project. The request must
9 also be made to the readjustment zone's administrative authority,
10 if one exists.

11 SECTION 61. Sections 2310.305(a) and (b), Government Code,
12 are amended to read as follows:

13 (a) If the governing body of a readjustment zone or the
14 governing body and administrative authority of a readjustment zone,
15 as appropriate, approve a request made under Section 2310.304, the
16 governing body may apply to the bank [~~department~~] for the
17 designation of the qualified business as a defense readjustment
18 project.

19 (b) An application must:

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

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

1 (A) the number of anticipated new permanent jobs
2 the business will create;

3 (B) the anticipated number of permanent jobs the
4 business will retain;

5 (C) the amount of investment to be made in the
6 zone; and

7 (D) other information the bank [~~department~~]
8 requires; and

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

14 SECTION 62. Sections 2310.306, 2310.307, and 2310.308,
15 Government Code, are amended to read as follows:

16 Sec. 2310.306. DEFENSE READJUSTMENT PROJECT DESIGNATION.

17 (a) The bank [~~department~~] may designate a qualified business as a
18 defense readjustment project only if the bank [~~department~~]
19 determines that:

20 (1) the business is a qualified business under Section
21 2310.302 that is located in or has made a substantial commitment to
22 locate in a defense readjustment zone;

23 (2) the governing body of the readjustment zone making
24 the application has demonstrated that a high level of cooperation
25 exists among public, private, and neighborhood entities in the
26 zone; and

27 (3) the designation will contribute significantly to

1 the achievement of the plans of the governing body making the
2 application for development and revitalization of the zone.

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

7 (1) 50 percent of the evaluation is based on the effect
8 of the loss of defense expenditures and employment on the
9 community;

10 (2) 25 percent of the evaluation depends on the local
11 effort to achieve development and revitalization of the
12 readjustment zone; and

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

16 (A) the level of cooperation and support the
17 project applicant commits to the revitalization goals of the zone;
18 and

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

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

24 Sec. 2310.307. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.
25 When the bank [~~department~~] designates a business as a defense
26 readjustment project, the bank [~~department~~] shall allocate to the
27 project the maximum number of new permanent jobs or retained jobs

1 eligible to be included in a computation of a tax refund for the
2 project. The number may not exceed 500 or a number equal to 110
3 percent of the number of anticipated new permanent jobs or retained
4 jobs specified in the application for designation of the business
5 as a defense readjustment project under Section 2310.305, whichever
6 is less.

7 Sec. 2310.308. DURATION OF CERTAIN DESIGNATIONS. The
8 bank's [~~department's~~] designation of a qualified business as a
9 defense readjustment project is effective until the fifth
10 anniversary of the date on which the designation is made regardless
11 of whether the readjustment zone in which the project is located
12 expires before the fifth anniversary of the project.

13 SECTION 63. Section 2310.402(b), Government Code, is
14 amended to read as follows:

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

18 SECTION 64. Section 2310.403(d), Government Code, is
19 amended to read as follows:

20 (d) The department or its successor or another state agency
21 may give preference to readjustment zones in granting economic
22 development money or other benefits.

23 SECTION 65. Section 2310.404(b), Government Code, as
24 amended by Article 1, Chapter 1134, Acts of the 77th Legislature,
25 Regular Session, 2001, is amended to read as follows:

26 (b) Not later than the 60th day after the last day of each
27 fiscal year, the comptroller shall report to the bank [~~department~~]

1 the statewide total of the tax refunds or credits made under this
2 section during that fiscal year.

3 SECTION 66. Section 2310.404(b), Government Code, as
4 amended by Article 2, Chapter 1134, Acts of the 77th Legislature,
5 Regular Session, 2001, is amended to read as follows:

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

10 SECTION 67. Section 2310.410(b), Government Code, is
11 amended to read as follows:

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

20 SECTION 68. Section 2310.413, Government Code, is amended
21 to read as follows:

22 Sec. 2310.413. MONITORING DEFENSE READJUSTMENT PROJECT
23 COMMITMENTS. (a) The bank [~~department~~] may monitor a defense
24 readjustment project to determine whether and to what extent the
25 project has followed through on any commitments made by it or on its
26 behalf under this chapter.

27 (b) The bank [~~department~~] may determine that the defense

1 readjustment project is not eligible for state tax refunds and
2 credits under Section 2310.404 if the bank [~~department~~] finds that:

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

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

10 SECTION 69. Sections 151.429(a) and (b), Tax Code, as
11 amended by Article 1, Chapter 1134, Acts of the 77th Legislature,
12 Regular Session, 2001, are amended to read as follows:

13 (a) An enterprise project is eligible for a refund in the
14 amount provided by this section of the taxes imposed by this chapter
15 on purchases of:

16 (1) equipment or machinery sold to an enterprise
17 project for use at the qualified business site [~~in an enterprise~~
18 ~~zone~~];

19 (2) building materials sold to an enterprise project
20 for use in remodeling, rehabilitating, or constructing a structure
21 at the qualified business site [~~in an enterprise zone~~];

22 (3) labor for remodeling, rehabilitating, or
23 constructing a structure by an enterprise project at the qualified
24 business site [~~in an enterprise zone~~];

25 (4) electricity and natural gas purchased and consumed
26 in the normal course of business at the qualified business site [~~in~~
27 ~~the enterprise zone~~];

1 (5) tangible personal property purchased and consumed
2 in the normal course of business at the qualified business site [~~in~~
3 ~~the enterprise zone~~]; and

4 (6) taxable services.

5 (b) Subject to the limitations provided by Subsection (c) of
6 this section, an enterprise project qualifies for a refund of taxes
7 under this section based on the amount of capital investment made at
8 the qualified business site and the refund per job with a maximum
9 refund to be included in a computation of a tax refund for the
10 project. A capital investment at the qualified business site of:

11 (1) \$40,000 to \$399,999 will result in a refund of up
12 to \$2,500 per job with a maximum refund of \$25,000 for the creation
13 or retention of 10 jobs;

14 (2) \$400,000 to \$999,999 will result in a refund of up
15 to \$2,500 per job with a maximum refund of \$62,500 for the creation
16 or retention of 25 jobs;

17 (3) \$1,000,000 to \$4,999,999 will result in a refund
18 of up to \$2,500 per job with a maximum refund of \$312,500 for the
19 creation or retention of 125 jobs;

20 (4) \$5,000,000 to \$149,999,999 will result in a refund
21 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
22 creation or retention of 250 jobs;

23 (5) \$150,000,000 to \$249,999,999 will result in a
24 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
25 for the creation or retention of 500 jobs; or

26 (6) \$250,000,000 or more will result in a refund of up
27 to \$7,500 per job with a maximum refund of \$3,750,000 for the

1 creation or retention of 500 jobs [~~of \$5,000 for each new permanent~~
2 ~~job or job that has been retained by the enterprise project for a~~
3 ~~qualified employee~~].

4 SECTION 70. Sections 151.429(a) and (b), Tax Code, as
5 amended by Article 2, Chapter 1134, Acts of the 77th Legislature,
6 Regular Session, 2001, are amended to read as follows:

7 (a) An enterprise project is eligible for a refund in the
8 amount provided by this section of the taxes imposed by this chapter
9 on purchases of:

10 (1) equipment or machinery sold to an enterprise
11 project for use at the qualified business site [~~in an enterprise~~
12 ~~zone~~];

13 (2) building materials sold to an enterprise project
14 for use in remodeling, rehabilitating, or constructing a structure
15 at the qualified business site [~~in an enterprise zone~~];

16 (3) labor for remodeling, rehabilitating, or
17 constructing a structure by an enterprise project at the qualified
18 business site [~~in an enterprise zone~~]; and

19 (4) electricity and natural gas purchased and consumed
20 in the normal course of business at the qualified business site [~~in~~
21 ~~the enterprise zone~~].

22 (b) Subject to the limitations provided by Subsection (c) of
23 this section, an enterprise project qualifies for a refund of taxes
24 under this section based on the amount of capital investment made at
25 the qualified business site and refund per job with a maximum refund
26 to be included in a computation of a tax refund for the project. A
27 capital investment at the qualified business site of:

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

4 (2) \$400,000 to \$999,999 will result in a refund of up
5 to \$2,500 per job with a maximum refund of \$62,500 for the creation
6 or retention of 25 jobs;

7 (3) \$1,000,000 to \$4,999,999 will result in a refund
8 of up to \$2,500 per job with a maximum refund of \$312,500 for the
9 creation or retention of 125 jobs;

10 (4) \$5,000,000 to \$149,999,999 will result in a refund
11 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
12 creation or retention of 250 jobs;

13 (5) \$150,000,000 to \$249,999,999 will result in a
14 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
15 for the creation or retention of 500 jobs; or

16 (6) \$250,000,000 or more will result in a refund of up
17 to \$7,500 per job with a maximum refund of \$3,750,000 for the
18 creation or retention of 500 jobs [~~of \$2,000 for each new permanent~~
19 ~~job or job that has been retained by the enterprise project for a~~
20 ~~qualified employee].~~

21 SECTION 71. Section 151.429, Tax Code, is amended by
22 amending Subsections (c), (d), (e), and (g) and adding Subsections
23 (i) and (j) to read as follows:

24 (c) The total amount of tax refund that an enterprise
25 project may apply for in a state fiscal year may not exceed
26 \$250,000. If an enterprise project qualifies in a state fiscal year
27 for a refund of taxes in an amount in excess of the limitation

1 provided by this subsection, it may apply for a refund of those
2 taxes in a subsequent year, subject to the \$250,000 limitation for
3 each year. [~~However, an enterprise project may not apply for a~~
4 ~~refund under this section after the end of the state fiscal year~~
5 ~~immediately following the state fiscal year in which the enterprise~~
6 ~~project's designation as an enterprise project expires or is~~
7 ~~removed.~~] The total amount that may be refunded to an enterprise
8 project under this section may not exceed the amount determined by
9 multiplying \$250,000 by the number of state fiscal years during
10 which the enterprise project created one or more jobs for qualified
11 employees.

12 (d) To receive a refund under this section, an enterprise
13 project must apply to the comptroller for the refund. The Texas
14 [~~Department of~~] Economic Development Bank established under
15 Chapter 489, Government Code, shall provide the comptroller with
16 the assistance that the comptroller requires in administering this
17 section.

18 (e) In this section:

19 (1) "Enterprise project" means a person designated by
20 the Texas [~~Department of~~] Economic Development Bank as an
21 enterprise project under Chapter 2303, Government Code.

22 (2) "Enterprise zone[~~7~~]" and "qualified employee[~~7~~]"
23 [~~and "qualified hotel project"~~] have the meanings assigned to those
24 terms by Section 2303.003, Government Code.

25 (3) "New permanent job" means a new employment
26 position created by a qualified business as described by Section
27 2303.402, Government Code, that:

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

3 (B) is intended to exist for at least three years
4 after a state benefit is received [~~during the period that the~~
5 ~~qualified business is designated as an enterprise project~~] under
6 Chapter 2303, Government Code.

7 (4) "Retained job" has the meaning assigned by Section
8 2303.401, Government Code.

9 (5) "Double jumbo enterprise project" and "triple
10 jumbo enterprise project" have the meanings assigned by Section
11 2303.407, Government Code.

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

24 (i) As provided by Subsection (c), a double jumbo enterprise
25 project is eligible for a maximum refund of \$500,000 and a triple
26 jumbo enterprise project is eligible for a maximum refund of
27 \$750,000 in each state fiscal year.

1 (j) An enterprise project approved by the Texas Economic
2 Development Bank after September 1, 2003, may not receive a refund
3 before September 1, 2005.

4 SECTION 72. Sections 151.4291(d) and (g), Tax Code, are
5 amended to read as follows:

6 (d) To receive a refund under this section, a defense
7 readjustment project must apply to the comptroller for the refund.
8 The Texas [~~Department of~~] Economic Development Bank shall provide
9 the comptroller with the assistance that the comptroller requires
10 in administering this section.

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 73. Section 151.4291(e)(1), Tax Code, is amended to
24 read as follows:

25 (1) "Defense readjustment project" means a person
26 designated by the Texas [~~Department of~~] Economic Development Bank
27 as a defense readjustment project under Chapter 2310, Government

1 Code.

2 SECTION 74. Sections 151.431(a) and (b), Tax Code, are
3 amended to read as follows:

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

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

26 SECTION 75. Section 151.431(e)(2), Tax Code, is amended to
27 read as follows:

1 (2) "Governing body" means the governing body of a
2 municipality or county that applied to have the project or activity
3 of a qualified business [~~area~~] designated as an enterprise project
4 [~~zone~~] under Section 2303.405 [~~2303.105~~], Government Code.

5 SECTION 76. Sections 171.501(a) and (b), Tax Code, are
6 amended to read as follows:

7 (a) A corporation that has been certified a qualified
8 business as provided by Chapter 2303, Government Code, may apply
9 for and be granted a refund of franchise tax paid with an initial or
10 annual report if the governing body certifies [~~or bodies certify~~]
11 to the comptroller [~~Texas Department of Economic Development~~] that
12 the business has created 10 or more new jobs [~~in its enterprise~~
13 ~~zone~~] held by qualified employees during the calendar year that
14 contains the end of the accounting period on which the report is
15 based. [~~The Texas Department of Economic Development shall certify~~
16 ~~eligibility for any refund to the comptroller.~~]

17 (b) Only qualified businesses that have been certified as
18 eligible for a refund under this section by the governing body [~~or~~
19 ~~bodies~~] to the [~~department and by the department to the~~]
20 comptroller are entitled to the refund. [~~During each calendar~~
21 ~~year, no more than three eligible qualified businesses may be~~
22 ~~certified to the department by a municipality or county, subject to~~
23 ~~Subsection (c).~~]

24 SECTION 77. Section 171.501(e)(2), Tax Code, is amended to
25 read as follows:

26 (2) "Governing body" means the governing body of a
27 municipality or county that applied to have the project or activity

1 of a qualified business [area] designated as an enterprise project
2 [zone] under Section 2303.405 [~~2303.105~~], Government Code.

3 SECTION 78. Sections 171.751(13) and (14), Tax Code, as
4 amended by Chapter 1134, Acts of the 77th Legislature, Regular
5 Session, 2001, effective September 1, 2003, are amended to read as
6 follows:

7 (13) "Defense readjustment project" means:

8 (A) a person designated by the Texas Department
9 of Economic Development as a defense readjustment project under
10 Chapter 2310, Government Code, on or after September 1, 2001, but
11 before September 1, 2003; and

12 (B) a person designated by the Texas Economic
13 Development Bank as a defense readjustment project under Chapter
14 2310, Government Code, on or after September 1, 2003.

15 (14) "Enterprise project" means:

16 (A) a person designated by the Texas Department
17 of Economic Development as an enterprise project under Chapter
18 2303, Government Code, on or after September 1, 2001, but before
19 September 1, 2003; and

20 (B) a person designated by the Texas Economic
21 Development Bank as an enterprise project under Chapter 2303,
22 Government Code, on or after September 1, 2003.

23 SECTION 79. Article 21.49B, Insurance Code, is amended to
24 read as follows:

25 Art. 21.49B. PROPERTY AND CASUALTY INSURANCE INITIATIVES
26 TASK FORCE. The commissioner may establish a task force to study
27 the utility and feasibility of instituting various property and

1 casualty insurance initiatives in this state. The initiatives to
2 be studied may include, but are not limited to:

3 (1) possible coordination with the Texas Economic
4 Development Bank [~~Department of Commerce~~] to make certain property
5 and casualty insurance an enterprise zone program pursuant to
6 Chapter 2303, Government Code;

7 (2) possible coordination with Neighborhood Housing
8 Service (NHS) Programs to establish voluntary NHS-Insurance
9 Industry Partnerships;

10 (3) possible insurance agent programs to increase
11 minority agency access to standard insurance companies, including
12 minority intern programs with insurance companies;

13 (4) possible tax incentives for insurance written in
14 underserved areas; and

15 (5) a consumer education program designed to increase
16 the ability of consumers to differentiate among different products
17 and providers in the property and casualty market.

18 SECTION 80. Sections 4(b), (d), (e), (f), and (g),
19 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
20 Civil Statutes), are amended to read as follows:

21 (b) There is hereby created the Texas Small Business
22 Industrial Development Corporation which shall act on behalf of the
23 state to carry out the public purposes of this Act. The Texas Small
24 Business Industrial Development Corporation shall be considered to
25 be a corporation within the meaning of this Act, shall be organized
26 and governed in accordance with the provisions of this Act, and
27 shall have all of the powers, and shall be subject to all of the

1 limitations, provided for corporations by this Act, except as
2 otherwise provided by this section. For purposes of this Act, the
3 state shall be considered to be the unit under whose auspices the
4 Texas Small Business Industrial Development Corporation is created
5 and the Texas Economic Development Bank established under Chapter
6 489, Government Code, [department] shall be considered to be the
7 governing body. To the extent that the provisions of this section
8 are inconsistent with other provisions of this Act, the provisions
9 of this section shall control as to the existence, powers,
10 limitations, organization, administration, operation, and affairs
11 of the Texas Small Business Industrial Development Corporation.

12 (d) The members of the board of the department or its
13 successor shall serve ex officio as the board of directors of the
14 Texas Small Business Industrial Development Corporation.

15 (e) A director, officer, employee, or member of the
16 department or its successor acting on behalf of the Texas Small
17 Business Industrial Development Corporation is not personally
18 liable for damage, loss, or injury resulting from the performance
19 of the person's duties under this Act or on any contract,
20 commitment, or agreement executed on behalf of the Texas Small
21 Business Industrial Development Corporation under this Act.

22 (f) All programs and expenditures of the Texas Small
23 Business Industrial Development Corporation must be approved on
24 behalf of the state by the Texas Economic Development Bank
25 [department]. Expenses incurred by the Texas Small Business
26 Industrial Development Corporation in the operation and
27 administration of its programs and affairs, including expenditures

1 for employees and program assistance or development, shall be paid
2 out of fees collected or revenues generated under this Act.

3 (g) The revenues and funds of the Texas Small Business
4 Industrial Development Corporation shall be deposited with one or
5 more financial institutions chosen for that purpose by the board of
6 directors. Funds of the Texas Small Business Industrial
7 Development Corporation may not be used or made available for use by
8 the Texas Economic Development Bank [~~department~~] except to
9 reimburse the bank [~~department~~] for expenses it incurs in its
10 official capacity on behalf of the Texas Small Business Industrial
11 Development Corporation.

12 SECTION 81. The following provisions are repealed:

- 13 (1) Subchapter P, Chapter 403, Government Code;
- 14 (2) Sections 481.023(b) and (c), Government Code;
- 15 (3) Section 481.194(b), Government Code;
- 16 (4) Section 481.197(a), Government Code;
- 17 (5) Sections 2303.003(4) and (8), Government Code;
- 18 (6) Sections 2303.102-2303.108, Government Code;
- 19 (7) Sections 2303.110-2303.112, Government Code;
- 20 (8) Sections 2303.202 and 2303.203, Government Code;
- 21 (9) Section 2303.205(b), Government Code;
- 22 (10) Subchapter E, Chapter 2303, Government Code;
- 23 (11) Section 2303.402(b), Government Code;
- 24 (12) Section 2303.5055, Government Code;
- 25 (13) Section 2303.508, Government Code;
- 26 (14) Section 2303.512, Government Code;
- 27 (15) Section 386.031(d), Local Government Code;

1 (16) Section 151.431(c), Tax Code; and

2 (17) Section 171.501(c), Tax Code.

3 SECTION 82. The changes in law made by this Act to Chapter
4 2303, Government Code, and Chapters 151 and 171, Tax Code, apply
5 only to an application for a designation under the enterprise zone
6 program under Chapter 2303, Government Code, as amended by this
7 Act, that is filed on or after the effective date of this Act. An
8 application for designation under the enterprise zone program that
9 is filed before the effective date of this Act is governed by the
10 law in effect on the date the application was filed, and the former
11 law is continued in effect for that purpose.

12 SECTION 83. On September 1, 2003:

13 (1) all functions and activities performed by the
14 comptroller relating to the small business incubator program, the
15 Texas small business incubator fund, and the Texas product
16 development fund immediately before that date are transferred to
17 the Texas Department of Economic Development or its successor or
18 the Texas Economic Development Bank, as provided by this Act;

19 (2) a rule adopted by the Product Development and
20 Small Business Incubator Board under Subchapter P, Chapter 403,
21 Government Code, as that law existed immediately before the
22 effective date of this Act, with respect to the small business
23 incubator program, the Texas small business incubator fund, and the
24 Texas product development fund remains in effect until rules are
25 adopted by the Product Development and Small Business Incubator
26 Board established under Subchapter D, Chapter 489, Government Code,
27 as added by this Act;

1 (3) all money, contracts, leases, rights, and
2 obligations of the comptroller related to functions and activities
3 performed by the comptroller relating to the small business
4 incubator program, the Texas small business incubator fund, and the
5 Texas product development fund are transferred to the Texas
6 Department of Economic Development or its successor or the Texas
7 Economic Development Bank, as provided by this Act;

8 (4) all funds appropriated by the legislature to the
9 comptroller for purposes related to the small business incubator
10 program, the Texas small business incubator fund, and the Texas
11 product development fund are transferred to the Texas Department of
12 Economic Development or its successor or the Texas Economic
13 Development Bank, as provided by this Act; and

14 (5) all property, including records, in the custody of
15 the comptroller related to functions and activities performed by
16 the comptroller relating to the small business incubator program,
17 the Texas small business incubator fund, and the Texas product
18 development fund becomes property of the Texas Department of
19 Economic Development or its successor or the Texas Economic
20 Development Bank, as provided by this Act.

21 SECTION 84. (a) As soon as possible on or after the
22 effective date of this Act, the governor shall appoint nine new
23 members to the Product Development and Small Business Incubator
24 Board in accordance with Subchapter D, Chapter 489, Government
25 Code, as added by this Act. In making the appointments, the
26 governor shall designate three members for terms expiring February
27 1, 2005, three members for terms expiring February 1, 2007, and

1 three members for terms expiring February 1, 2009. The members
2 appointed under this subsection may not perform the functions of
3 the board until the day after the date a majority of the new members
4 take office.

5 (b) Until the date the new members of the Product
6 Development and Small Business Incubator Board may begin performing
7 the functions of the board under Subsection (a) of this section, the
8 members serving on the board immediately before the effective date
9 of this Act shall continue to carry out the functions of the board.
10 On the date the new members may begin performing the functions of
11 the board, the offices of the members serving immediately before
12 the effective date of this Act are abolished.

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

25 SECTION 85. On the effective date of this Act, unobligated
26 and unexpended money in the capital access fund created under
27 Section 481.402, Government Code, as amended by this Act, and in the

1 Texas leverage fund shall be transferred to the Texas economic
2 development bank fund created under Section 489.105, Government
3 Code, as added by this Act.

4 SECTION 86. This Act takes effect September 1, 2003.