

By: Keffer of Eastland

H.B. No. 3549

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, operation, and funding of an economic development bank; authorizing programs and services within the bank;

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

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 489 to read as follows:

CHAPTER 489. TEXAS ECONOMIC DEVELOPMENT BANK

SUBCHAPTER A. GENERAL PROVISIONS

Section 489.101. DEFINITIONS. In this chapter:

(1) "Account" means the community infrastructure development revolving loan account.

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

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

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

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

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

(7) "Day" means the period between 8 a.m. and 5 p.m. of

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

2 (8) "Defense worker" means:

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

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

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

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

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

19 (10) "Eligible borrower" means:

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

23 (B) a nonprofit corporation; or

24 (C) a child-care provider.

25 (11) "Eligible community" means a local governmental  
26 entity eligible for a grant under Section 486.003 and that is  
27 located less than 25 miles from a defense base facility described by

1 Section 486.003(b)(1).

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

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

9 (14) "Financial institution" includes a bank, trust  
10 company, banking association, savings and loan association,  
11 mortgage company, investment bank, credit union, or nontraditional  
12 financial institution.

13 (15) "Fund" means the Texas Economic Development Bank  
14 Fund.

15 (16) "Historically underutilized business" means:

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

22 (B) a sole proprietorship formed for the purpose  
23 of making a profit that is 100 percent owned, operated, and  
24 controlled by a person described by Paragraph (A) of this  
25 subdivision;

26 (C) a partnership formed for the purpose of  
27 making a profit in which 51 percent of the assets and interest in

1 the partnership is owned by one or more persons described by  
2 Paragraph (A) of this subdivision. Those persons must have  
3 proportionate interest and demonstrate active participation in the  
4 control, operation, and management of the partnership's affairs; or

5 (D) a joint venture in which each entity in the  
6 joint venture is a historically underutilized business under this  
7 subdivision.

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

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

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

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

16 (B) is formed to make a profit, and

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

19 (20) "Neighborhood enterprise association" means an  
20 association certified as a neighborhood enterprise association  
21 under Section 489.324.

22 (21) "Nominating body" means the governing body of a  
23 municipality or county, or a combination of the governing bodies of  
24 municipalities or counties, that nominates and applies for  
25 designation of an area as an enterprise zone.

26 (22) "Nonprofit corporation" means a not for profit  
27 corporation organized under the Texas Non-Profit Corporation Act

1 (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

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

7 (24) "Office" means the Texas Economic Development  
8 Office.

9 (25) "Panel" means the Defense Economic Adjustment  
10 Assistance Panel.

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

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

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

16 (A) works for a qualified business; and

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

19 (29) "Qualified hotel project" means a hotel proposed  
20 to be constructed by a municipality or a nonprofit municipally  
21 sponsored local government corporation created under the Texas  
22 Transportation Corporation Act, Chapter 431, Transportation Code,  
23 that is within 1,000 feet of a convention center owned by a  
24 municipality having a population of 1,500,000 or more, including  
25 shops, parking facilities, and any other facilities ancillary to  
26 the hotel.

27 (30) "Readjustment zone" means an area designated as a

1 defense economic readjustment zone under this chapter.

2 (31) "Reserve account" means an account established in  
3 a participating financial institution on approval of the office in  
4 which money is deposited to serve as a source of additional revenue  
5 to reimburse the financial institution for losses on loans enrolled  
6 in the program.

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

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

11 (B) is formed to make a profit;

12 (C) is independently owned and operated; and

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

14 Section 489.102. PURPOSE. (a) The office shall establish a  
15 Texas Economic Development Bank for the purpose of providing  
16 globally competitive, cost effective state incentives to expanding  
17 or relocating businesses and to ensure that Texas communities and  
18 businesses have access to capital for economic development.

19 (b) The bank shall offer a variety of financial incentives  
20 to help Texas communities and businesses compete and succeed in the  
21 global marketplace. The bank shall assist communities by providing  
22 them with grants and debt financing with which to fund their  
23 economic development efforts.

24 (c) The bank may provide qualifying communities with tax  
25 incentives for expanding or relocating businesses and may offer  
26 incentives to lenders to make loans to near bankable businesses and  
27 low interest loans to qualifying businesses.

1       (d) The bank may offer bond based long-term debt financing  
2 for capital investment in large commercial and industrial projects,  
3 act as a link between businesses searching for investment capital  
4 and potential investors, inform institutional lenders of Texas  
5 economic development plans and strategies for each region of the  
6 state and encourage them to support these plans in their marketing  
7 and investment strategies.

8       (e) The bank may offer communities a one-stop source of  
9 financing for their economic development efforts and technical  
10 assistance in the development of their incentives programs to  
11 attract and retain businesses as well as in the design of incentives  
12 packages for specific prospects.

13       (f) The bank may also provide expanding or relocating  
14 businesses with a single source for information concerning  
15 financial incentives offered by Texas to relocating or expanding  
16 businesses.

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

22       (h) The bank shall charge fees to the beneficiaries of its  
23 services as necessary. These fees may be used to support the bank's  
24 administration of its programs and implementation of its  
25 strategies.

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

1 fund.

2 (b) Appropriations for the implementation and  
3 administration of this chapter, funds deposited into the Capital  
4 Access Fund No. 5035 and the Texas Leverage Program Fund No. 851,  
5 investment earnings, fees charged under this chapter, federal  
6 funds, and any other amounts received by the state under this  
7 chapter shall be deposited in the Texas Economic Development Bank  
8 Fund.

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

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

13 Section 489.104. POWERS OF THE OFFICE IN ADMINISTERING THE  
14 TEXAS ECONOMIC DEVELOPMENT BANK FUND. (a) The office shall  
15 administer the fund. In administering the fund, the office has the  
16 powers necessary to carry out the purposes of this chapter,  
17 including the power to:

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

21 (2) invest money in obligations and select and use  
22 depositories for its money as determined proper by the office and  
23 permitted by law;

24 (3) impose and collect fees and charges in connection  
25 with any transaction and provide for reasonable penalties for  
26 delinquent payment or performance; and

27 (4) issue bonds for economic development projects as



1 defined by the Industrial Development Corporation Act of 1979.

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

4 (1) make loans through the purchase of or  
5 participation in, and pledge, hypothecate, negotiate, and sell,  
6 bonds notes, and other evidences of indebtedness incurred by users  
7 to finance projects that represent a direct loan, grant, or loan  
8 participation, or the repayment of which is totally or partially  
9 insured or otherwise guaranteed, by the United States of America,  
10 by the state, or by any agency, office, or instrumentality of  
11 either; and

12 (2) otherwise provide financing for users, either  
13 directly or indirectly, in the manner that the Texas Small Business  
14 Industrial Development Corporation determines to be necessary or  
15 convenient for the performance of its public purposes, functions,  
16 and duties under this chapter.

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

19 Section 489.105. REPORTS; AUDITS. (a) On or before January  
20 1 of each year, the office shall submit to the legislature an annual  
21 status report on the activities of the Texas Economic Development  
22 Bank.

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

25 Section 489.106. STATE LIABILITY PROHIBITED. The state and  
26 its officers and employees are not liable to participants for  
27 grants, loans, or other transactions under this chapter except as

1 specifically provided by law.

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

5 (1) the Texas Small Business Industrial Development  
6 Corporation;

7 (2) the Capital Access Program;

8 (3) the Texas Leverage Fund;

9 (4) the Linked Deposit Program;

10 (5) the Enterprise Zone Program;

11 (6) the Industrial Revenue Bond Program;

12 (7) the Defense Economic Adjustment Assistance Grant  
13 Program;

14 (8) the Defense Economic Readjustment Zone Program;

15 (9) the Defense Revolving Loan Program;

16 (10) the Texas Small Business Incubator Fund; and

17 (11) the federal Empowerment Zone, Enterprise  
18 Community, and Renewal Community Program.

19 SUBCHAPTER B. FINANCE PROGRAMS

20 Section 489.201. TEXAS SMALL BUSINESS INDUSTRIAL  
21 DEVELOPMENT CORPORATION. (a) The Texas Small Business Industrial  
22 Development Corporation shall act on behalf of the state to carry  
23 out the public purposes of this chapter. The Texas Small Business  
24 Industrial Development Corporation shall be considered to be a  
25 corporation within the meaning of the Development Corporation Act  
26 of 1979 (Article 5190.6 Vernon's Texas Civil Statutes), shall be  
27 organized and governed in accordance with the provisions of the

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

12 (b) All bonds issued and delivered by the Texas Small  
13 Business Industrial Development Corporation before September 1,  
14 1987, and all proceedings authorizing those bonds are validated,  
15 ratified, confirmed, and approved in all respects, and they are  
16 incontestable.

17 (c) The governor shall appoint the board of directors of the  
18 Texas Small Business Industrial Development Corporation. The  
19 governor or his designee shall serve ex officio as a member of the  
20 board of directors.

21 (d) A director, officer, employee, or member of the office  
22 acting on behalf of the Texas Small Business Industrial Development  
23 Corporation is not personally liable for damage, loss, or injury  
24 resulting from the performance of the person's duties under this  
25 chapter or on any contract, commitment, or agreement executed on  
26 behalf of the Texas Small Business Industrial Development  
27 Corporation under this chapter.

1       (e) All programs and expenditures of the Texas Small  
2 Business Industrial Development Corporation must be approved on  
3 behalf of the state by the office. Expenses incurred by the Texas  
4 Small Business Industrial Development Corporation in the operation  
5 and administration of its programs and affairs, including  
6 expenditures for employees and program assistance or development,  
7 shall be paid out of fees collected or revenues generated under this  
8 chapter.

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

13       (g) Notwithstanding any other provision of this Act,  
14 "project" includes any use of amounts financed through the purchase  
15 by the Texas Small Business Industrial Development Corporation of  
16 bonds, notes, or other evidences of indebtedness of users under  
17 this subsection if the uses are found by the board of directors of  
18 the Texas Small Business Industrial Development Corporation to be  
19 required or suitable for the promotion of economic development in  
20 the state. Those findings may be based solely on a review by the  
21 board of directors of the Texas Small Business Industrial  
22 Development Corporation of the criteria used to determine  
23 eligibility of a user for obtaining a direct loan, grant, loan  
24 participation, insurance, or any other guarantee from the United  
25 States of America, the state, or any agency or instrumentality of  
26 either. Proceeds of bonds issued before September 1, 1987, may be  
27 used to pay all or part of the costs of a project regardless of

1 whether the costs or project were within the definition of those  
2 terms under the Texas Department of Commerce Act before that date,  
3 or for any other purposes authorized by this chapter or the Act.

4 (h) The Texas Small Business Industrial Development  
5 Corporation may not issue bonds for any purpose after September 1,  
6 1987.

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

12 (b) Industrial Development Corporations established under  
13 the Act shall submit a transcript of proceedings in connection with  
14 the issuance of the bonds to the office and request that the office  
15 approve the bonds. On filing a request for the office's approval of  
16 issuance of the bonds, the corporation shall pay to the office a  
17 nonrefundable filing fee. The office shall set the amount of the  
18 fee at a reasonable amount, but not less than \$500 or more than  
19 \$25,000. If the office refuses to approve the bond issue solely on  
20 the basis of law, the corporation may seek a writ of mandamus from  
21 the Supreme Court, and for this purpose the executive head of the  
22 office shall be considered a state officer as provided in Section  
23 22.002, Government Code.

24 (c) No corporation shall sell or offer for sale any bonds or  
25 other securities until a permit authorizing the corporation to  
26 offer and sell such securities has been granted by the securities  
27 commissioner under the registration provisions of The Securities

1 Act, as amended (Article 581-1 et set., Vernon's Texas Civil  
2 Statutes), except as the State Securities Board may exempt from  
3 registration by rule, regulation, or order. Appeal from any  
4 adverse decision of the securities commissioner or the State  
5 Securities Board shall be as provided by the Administrative  
6 Procedure and Texas Register Act, as amended (Chapter 2001,  
7 Government Code). The substantial evidence rule shall apply in all  
8 such appeals.

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

13 Section 489.203. TEXAS LEVERAGE FUND. (a) Pursuant to the  
14 provisions of Article III, Section 52-a, of the Texas Constitution  
15 and the Development Corporation Act of 1979 (Article 5190.6  
16 Vernon's Texas Civil Statutes), the office shall administer the  
17 Texas Leverage Fund for the purpose of making loans secured by and  
18 paid from economic development sales and use tax receipts to  
19 certain local industrial development corporations to fund the cost  
20 of eligible projects under the Act.

21 (b) The office shall review and approve the contents of any  
22 lease, sale, or loan agreement made in connection with the Texas  
23 Leverage Fund and shall prescribe rules and regulations setting  
24 forth minimum standards for project eligibility and loan  
25 agreements. In no event shall the office approve any agreement  
26 unless it finds that the project sought to be financed is in  
27 furtherance of the public purposes of the Act.

1       Section 489.204. CAPITAL ACCESS PROGRAM. (a) The office  
2 shall administer the capital access program to assist a  
3 participating financial institution in making loans to businesses  
4 and nonprofit organizations that face barriers in accessing  
5 capital.

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

11           (2) The office shall determine the eligibility of a  
12 financial institution to participate in the program and may set a  
13 limit on the number of eligible financial institutions that may  
14 participate in the program.

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

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

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

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

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

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

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

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

13           (2) contain the same restrictions, to the extent  
14 possible, that are placed on a capital access loan that is not a  
15 line of credit.

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

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

22           (1) construction or purchase of residential housing;

23           (2) simple real estate investments, excluding the  
24 development or improvement of commercial real estate occupied by  
25 the borrower's business or organization;

26           (3) inside bank transactions, as defined by the  
27 office.



1       (g) The borrower of a capital access loan must apply the  
2 loan to working capital or to the purchase, construction, or lease  
3 of capital assets, including buildings and equipment used by the  
4 business or nonprofit organization. Working capital uses include  
5 the cost of exporting, accounts receivable, payroll, inventory, and  
6 other financing needs of the business or organization.

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

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

12       (j) Reserve Account. On approval by and after entering into  
13 a participation agreement with the office, a participating  
14 financial institution making a capital access loan shall establish  
15 a reserve account. The reserve account shall be used by the  
16 institution only to cover any losses arising from a default of a  
17 capital access loan made by the institution under this section or as  
18 otherwise provided by this section:

19           (1) When a participating financial institution makes a  
20 loan enrolled in the program, the institution shall require the  
21 borrower to pay to the institution a fee in an amount that is not  
22 less than two percent but not more than three percent of the  
23 principal amount of the loan, which the financial institution shall  
24 deposit in the reserve account. The institution shall also deposit  
25 in the reserve account an amount equal to the amount of the fee  
26 received by the institution from the borrower under this  
27 subsection. The institution may recover from the borrower all or

1 part of the amount the institution is required to pay under this  
2 subsection in any manner agreed to by the institution and borrower.

3 (2) For each capital access loan made by a financial  
4 institution, the institution shall certify to the office, within  
5 the period prescribed by the office, that the institution has made a  
6 capital access loan, the amount the institution has deposited in  
7 the reserve account, including the amount of fees received from the  
8 borrower, and, if applicable, that the borrower is located in or  
9 financing a project, activity, or enterprise in an area designated  
10 as an enterprise zone under Chapter 489, Subchapter C.

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

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

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

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

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

26 (i) the borrower is located in or financing  
27 a project, activity, or enterprise in an area designated as an

1 enterprise zone under Subchapter C; or

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

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

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

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

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

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

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

21 (B) six percent of the loan amount for any other  
22 borrower.

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

25 (1) The state is entitled to earn interest on the  
26 amount of contributions made by the office, borrower, and  
27 institution to a reserve account under this section. The office

1 shall withdraw monthly or quarterly from a reserve account the  
2 amount of the interest earned by the state. The office shall  
3 deposit the amount withdrawn under this subsection into the fund.

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

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

13 (A) a financial institution is no longer eligible  
14 to participate in the program or a participation agreement entered  
15 into under this section expires without renewal by the office or  
16 institution;

17 (B) the financial institution has no outstanding  
18 capital access loans; and

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

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

23 (1) provide information regarding outstanding capital  
24 access loans, capital access loan losses, and any other information  
25 on capital access loans the office considers appropriate;

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

1           (3) include a copy of the institution's most recent  
2 financial statements; and

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

5           Section 489.205. LINKED DEPOSIT PROGRAM. (a) A linked  
6 deposit is a time deposit governed by a written deposit agreement  
7 between the state and an eligible lending institution that  
8 provides:

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

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

13                   (B) 1.5 percent; and

14           (2) that the eligible lending institution agree to  
15 lend the value of the deposit to an eligible borrower at a maximum  
16 rate that is the current market rate of a United States treasury  
17 bill or note of comparable maturity plus four percent.

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

20                   (1) small businesses in enterprise zones;

21                   (2) historically underutilized businesses;

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

24                   (4) quality, affordable child-care services in this  
25 state.

26           (c) Applications:

27                   (1) In order to participate in the linked deposit

1 program, an eligible lending institution may solicit loan  
2 applications from eligible borrowers.

3 (2) After reviewing an application and determining  
4 that the applicant is an eligible borrower and is creditworthy, the  
5 eligible lending institution shall send the application for a  
6 linked deposit loan to the office.

7 (3) The eligible lending institution shall certify the  
8 interest rate applicable to the specific eligible borrower and  
9 attach it to the application sent to the office.

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

12 (c) After the office's acceptance of the application and the  
13 lending institution originates a loan to an eligible borrower, the  
14 office shall place a linked deposit with the applicable eligible  
15 lending institution for the period of the loan, subject to  
16 subsections (d) and (e). The office is not required to maintain the  
17 deposit with the lending institution if the loan is extended,  
18 renewed, or renegotiated unless the office accepts a new linked  
19 deposit loan application under this section for the loan as  
20 modified. Subject to the limitation described by Section  
21 489.205(h), the comptroller shall place a time deposit at the  
22 direction of the office at an interest rate described by Subsection  
23 (a) and may modify the interest rate during the period of the loan,  
24 notwithstanding any order of the State Depository Board to the  
25 contrary.

26 (d) Before the placing of a linked deposit, the eligible  
27 lending institution and the state, represented by the office, shall

1 enter into a written deposit agreement containing the conditions on  
2 which the linked deposit is made. The deposit agreement must  
3 provide that:

4 (1) the comptroller shall place the time deposit  
5 within ten business days;

6 (2) the lending institution shall notify the office if  
7 the borrower to which the deposit is linked defaults on the loan;  
8 and

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

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

14 (f) On acceptance of its application to receive linked  
15 deposits, an eligible lending institution shall loan money to an  
16 eligible borrower in accordance with the deposit agreement and this  
17 section. The eligible lending institution shall forward a  
18 compliance report to the office.

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

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

26 (i) The borrower shall apply a loan granted under this  
27 subchapter to working capital or to the purchase, construction, or

1 lease of capital assets, including land, buildings, and equipment.

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

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

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



1 the development of new or existing small businesses in this state.

2 SUBCHAPTER C. ENTERPRISE ZONES.

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

5 Section 489.302. PURPOSES. The purposes of this subchapter  
6 are to establish a process that clearly identifies severely  
7 distressed areas of the state and provides incentives by state and  
8 local government to induce private investment in those areas by  
9 removing unnecessary governmental regulatory barriers to economic  
10 growth and to provide tax incentives and economic development  
11 program benefits.

12 Section 489.303. JURISDICTION OF MUNICIPALITY. For the  
13 purposes of this subchapter, territory in the extraterritorial  
14 jurisdiction of a municipality is considered to be in the  
15 jurisdiction of the municipality.

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

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

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

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

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

26 (b) The office shall provide to persons desiring to locate  
27 and engage in business in an enterprise zone information and

1 appropriate assistance relating to the required legal  
2 authorization, including a state license, permit, certificate,  
3 approval, registration, or charter, to engage in business in this  
4 state.

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

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

11 Section 489.305. COORDINATION WITH OTHER GOVERNMENTAL  
12 ENTITIES. (a) In cooperation with the appropriate units of local  
13 government and other state agencies, the office shall coordinate  
14 and streamline state business assistance programs and permit or  
15 license application procedures for businesses in enterprise zones.

16 (b) The office shall:

17 (1) work with the responsible state and federal  
18 agencies to coordinate enterprise zone programs with other programs  
19 carried out in an enterprise zone, including housing, community and  
20 economic development, small business, banking, financial  
21 assistance, transportation, and employment training programs;

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

25 (3) work, when possible, for the consolidation of  
26 periodic reports required under those programs into one summary  
27 report.

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

4       Section 489.306. CRITERIA FOR ENTERPRISE ZONE DESIGNATION.

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

6               (1) have a continuous boundary;

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

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

11                      (B) an area, not to exceed 20 square miles, that  
12 is equal to five percent of the area, excluding lakes, waterways,  
13 and transportation arteries, of the municipality, county, or  
14 combination of municipalities or counties nominating the area as an  
15 enterprise zone;

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

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

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

24       Section 489.307. AREA OF PERVASIVE POVERTY, UNEMPLOYMENT,  
25 AND ECONOMIC DISTRESS. (a) An area is an area of pervasive

26 poverty, unemployment, and economic distress for the purposes of  
27 Section 489.306 if:

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

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

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

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

13                   (C) at least 70 percent of the residents or  
14 households of the area have an income that is less than 80 percent  
15 of the median income of the residents or households of the locality  
16 or state, whichever is less; or

17                   (D) the nominating body establishes to the  
18 satisfaction of the office that:

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

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

23                           (iii) substantial losses of businesses or  
24 jobs have occurred in the area;

25                           (iv) the area is part of a disaster area  
26 declared by the state or federal government during the preceding 18  
27 months; or

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

4           (b) Labor force and population data are considered current  
5 if:

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

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

10           (c) For purposes of determining the average rate of  
11 unemployment in the area under Subsection (a)(1), individuals who  
12 are employed by a business and whose principal place of employment  
13 is on property for which the business has received a certificate of  
14 completion under Section 361.609, Health and Safety Code, are not  
15 considered.

16           Section 489.308. NOMINATION OF ENTERPRISE ZONE. (a) The  
17 governing body of a municipality or county, individually or in  
18 combination with other municipalities or counties, by ordinance or  
19 order, as appropriate, may nominate as an enterprise zone an area  
20 within its jurisdiction that meets the criteria under Section  
21 489.306.

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

25           (c) The governing body of a county may not nominate  
26 territory in a municipality, including extraterritorial  
27 jurisdiction of a municipality, to be included in a proposed

1 enterprise zone unless the governing body of the municipality also  
2 nominates the territory and together with the county files a joint  
3 application under Section 489.310.

4 (d) The governing bodies of a combination of municipalities  
5 or counties may not jointly nominate an area as an enterprise zone  
6 unless the governing bodies have entered into a binding agreement  
7 to administer the zone jointly.

8 (e) Notwithstanding Subsections (c) and (d), the governing  
9 body of a county with a population of 1.3 million or more may  
10 nominate territory in that county that is in the extraterritorial  
11 jurisdiction of a municipality to be included in one or more of the  
12 county's enterprise zones, and the county shall administer a zone  
13 that is established as the result of the nomination.

14 Section 489.309. NOMINATING ORDINANCE OR ORDER. (a) An  
15 ordinance or order nominating an area as an enterprise zone must:

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

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

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

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

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

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

5       Section 489.310. APPLICATION FOR DESIGNATION. (a) For an  
6 area to be designated as an enterprise zone, the nominating body,  
7 after nominating the area as an enterprise zone, must send to the  
8 office a written application for designation of the area as an  
9 enterprise zone.

10       (b) The application must include:

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

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

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

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

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

25           (6) a description of the functions, programs, and  
26 services to be performed by a neighborhood enterprise association  
27 in the area;

1           (7) an estimate of the economic impact of the  
2 designation of the area as an enterprise zone on the revenues of the  
3 governmental entity or entities nominating the area as an  
4 enterprise zone, considering all the financial incentives and  
5 benefits and the programs contemplated;

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

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

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

14           (11) a description of the administrative authority, if  
15 one is to be appointed for the enterprise zone under Section  
16 489.319; and

17           (12) any additional information the office requires.

18           (c) Information required by Subsection (b) is for  
19 evaluation purposes only.

20           Section 489.311. REVIEW OF APPLICATION. (a) On receipt of  
21 an application for the designation of an enterprise zone, the  
22 office shall review the application to determine if the nominated  
23 area qualifies for designation as an enterprise zone under this  
24 chapter.

25           (b) The office shall allow an applicant to correct any  
26 omission or clerical error in the application and to return the  
27 application to the office on or before the 10th day after the day on



1 which the office receives the application.

2 Section 489.312. DESIGNATION AGREEMENT. (a) If the office  
3 determines that a nominated area for which a designation  
4 application has been received satisfies the criteria under Section  
5 489.306, the office shall negotiate with the nominating body for a  
6 designation agreement.

7 (b) A designation agreement must:

8 (1) designate the nominated area as an enterprise  
9 zone; and

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

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

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

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

25 Section 489.313. DENIAL OF APPLICATION; NOTICE. (a) The  
26 office may deny an application for the designation of an enterprise  
27 zone only if the office determines that the nominated area does not

1 satisfy the criteria under Section 489.306.

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

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

9 (b) Notwithstanding Subsection (a), an area designated as a  
10 federal enterprise zone, federal empowerment zone, or federal  
11 enterprise community may be designated as an enterprise zone  
12 without further qualification for longer than seven years but not  
13 longer than the period permitted by federal law.

14 Section 489.315. AMENDING BOUNDARIES. (a) The nominating  
15 body may amend the boundary of an enterprise zone by ordinance or  
16 order, as appropriate, adopted after a public hearing on the issue.

17 (b) The amended boundary:

18 (1) must be continuous;

19 (2) may not exceed the original size requirement of  
20 Section 489.306; and

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

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

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

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

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

8           (1) the area no longer meets the criteria for  
9 designation under this chapter or by rule adopted under this  
10 chapter; or

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

14       (b) The removal of a designation does not affect the  
15 validity of:

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

18           (2) bonds issued under this chapter.

19       Section 489.317. EXCEPTION TO LIMIT ON DESIGNATION.  
20 Designation as an enterprise zone under this subchapter of an area  
21 designated as a federal enterprise zone, federal empowerment zone,  
22 or federal enterprise community located in a municipality or county  
23 does not reduce the number of enterprise zones that the  
24 municipality or county may have designated under this subchapter.

25       Section 489.318. ADMINISTRATION BY GOVERNING BODY. The  
26 governing body of an enterprise zone is the governing body of the  
27 municipality or county, or the governing bodies of the combination

1 of municipalities or counties, that applied to have the area  
2 designated as an enterprise zone.

3 Section 489.319. ADMINISTRATION BY ADMINISTRATIVE  
4 AUTHORITY. (a) The governing body of an enterprise zone may  
5 delegate its administrative duties to an administrative authority  
6 appointed by the governing body.

7 (b) An administrative authority must:

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

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

12 (3) include enterprise zone residents and  
13 representatives of the governing body of the zone and of local  
14 businesses

15 Section 489.320. PARTICIPATION BY NEIGHBORHOOD ENTERPRISE  
16 ASSOCIATIONS. Each neighborhood enterprise association organized  
17 under Section 489.323 should:

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

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

22 Section 489.321. LIAISON. The governing body of an  
23 enterprise zone shall designate a liaison to communicate and  
24 negotiate with:

25 (1) the office;

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

27 (3) an enterprise project; and

1           (4) other entities in or affected by the enterprise  
2 zone.

3           Section 489.322. ANNUAL REPORT. (a) Not later than October  
4 1 of each year, the governing body of an enterprise zone shall  
5 submit to the office a report in the form required by the office.

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

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 zone;

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

15           (3) the number of businesses assisted, located, and  
16 retained in the zone since its designation due to the existence of  
17 the enterprise zone;

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

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

22           Section 489.323. ORGANIZATION OF NEIGHBORHOOD ENTERPRISE  
23 ASSOCIATION. (a) Individuals residing in an enterprise zone may  
24 organize a neighborhood enterprise association.

25           (b) Only one association may exist for a geographic  
26 neighborhood area.

27           (c) The association must:

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

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

7           (d) The articles of incorporation must:

8           (1) describe the geographic neighborhood area of the  
9 association; and

10           (2) authorize the association to engage in business  
11 only in the enterprise zone in which the neighborhood area is  
12 located.

13           (e) The incorporators shall publish in a newspaper of  
14 general circulation in the governmental entity or entities that  
15 applied to have the area designated as an enterprise zone an  
16 explanation of the proposed association and the incorporators'  
17 rights in the association.

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

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

22           (2) the county judge's office if the entity is a  
23 county.

24           Section 489.324. CERTIFICATION OF ASSOCIATION. (a) After  
25 a neighborhood enterprise association is organized, the  
26 association's board of directors must apply to the governing body  
27 of the enterprise zone or to the office for certification as a

1 neighborhood enterprise association.

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

5 Section 489.325. MEMBERSHIP; VOTING. (a) The membership  
6 of a neighborhood enterprise association may be composed only of  
7 residents of the enterprise zone.

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

10 (1) a resident of the association's geographic  
11 neighborhood area; and

12 (2) of voting age.

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

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

19 (b) A neighborhood enterprise association with the approval  
20 of and in coordination with the responsible state or local  
21 governmental entity may;

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

24 (2) establish volunteer day-care centers;

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

27 (4) provide garbage collection;

1           (5) maintain and improve streets, bridges, and water  
2 and sewer lines;

3           (6) provide energy or water conservation projects;

4           (7) provide health and clinic services;

5           (8) provide drug abuse programs;

6           (9) provide senior citizen assistance programs;

7           (10) maintain parks;

8           (11) rehabilitate, renovate, operate, or maintain low  
9 or moderate income housing; and

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

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

16           (d) The governmental entity responsible for providing a  
17 service may contract with a neighborhood enterprise association to  
18 provide services in an amount equal to the amount saved by the  
19 entity by the provision of the service under the contract.

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

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

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



1       Section 489.327. APPROVED PROJECTS. (a) On approval of the  
2 governing body of an enterprise zone, a neighborhood enterprise  
3 association may carry out projects other than those under Section  
4 489.326(b). The association must submit to the governing body an  
5 application that describes the nature and benefit of the project  
6 and that specifically states:

7           (1) how the project will contribute to the self-help  
8 efforts of the residents of the association's geographic  
9 neighborhood area;

10          (2) how the residents of the geographic neighborhood  
11 area will be involved in the planning and implementation of the  
12 project;

13          (3) whether there are sufficient resources to complete  
14 the project and whether the association will be fiscally  
15 responsible for the project; and

16          (4) whether the project will enhance the enterprise  
17 zone by:

18                   (A) creating permanent jobs;

19                   (B) physically improving the housing stock;

20                   (C) stimulating neighborhood business activity;

21 or

22                   (D) preventing crime.

23       (b) If the governing body of an enterprise zone does not  
24 disapprove an application submitted under Subsection (a) before the  
25 45th day after the day of receipt of the application, the  
26 application is considered to be approved.

27       (c) If the governing body of an enterprise zone disapproves

1 an application submitted under Subsection (a), the governing body  
2 shall notify the association of the specific reasons for the  
3 decision and shall allow the association to amend the application  
4 on or before the 60th day after the date of the notification.

5 (d) The association shall furnish to the governing body of  
6 the enterprise zone:

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

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

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

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

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

19 (A) residents of any enterprise zone in the  
20 jurisdiction of the governing body of the enterprise zone; or

21 (B) economically disadvantaged individuals.

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

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

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

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

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

5            (2) receives public assistance benefits, including  
6 welfare payments or food stamps, based on need and intended to  
7 alleviate poverty;

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

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

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

14           (6) is entering the workplace after being confined in  
15 a facility operated by the institutional division of the Texas  
16 Department of Criminal Justice or under contract with the Texas  
17 Department of Criminal Justice;

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

21           (8) meets the current low income or moderate income  
22 limits developed under Section 8, United States Housing Act of 1937  
23 (42 U.S.C. Section 1437f et seq.).

24        Section 489.329. PROHIBITION ON QUALIFIED BUSINESS  
25 CERTIFICATION. If the office determines that the governing body of  
26 an enterprise zone is not complying with this subchapter, the  
27 office shall prohibit the certification of a qualified business in

1 the zone until the office determines that the governing body is  
2 complying with this subchapter. The office may not designate more  
3 than 85 businesses as enterprise projects during any biennium.

4 Section 489.330. REQUEST FOR APPLICATION FOR ENTERPRISE  
5 PROJECT DESIGNATION. (a) A qualified business in an enterprise  
6 zone described by Subsection (b) may request that the governing  
7 body of the enterprise zone apply to the office for designation of  
8 the business as an enterprise project. The request must also be  
9 made to the enterprise zone's administrative authority, if one  
10 exists.

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

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

15 (2) a population loss of at least:

16 (A) 12 percent during the most recent six-year  
17 period; or

18 (B) four percent during the most recent  
19 three-year period.

20 Section 489.331. APPLICATION FOR ENTERPRISE PROJECT  
21 DESIGNATION. (a) If the governing body of an enterprise zone or  
22 the governing body and administrative authority of an enterprise  
23 zone, as appropriate, approve a request made under Section 489.330,  
24 the governing body may apply to the office for the designation of  
25 the qualified business as an enterprise project.

26 (b) An application must:

27 (1) describe completely the conditions in the

1 enterprise zone that constitute pervasive poverty, unemployment,  
2 and economic distress for purposes of Section 489.306;

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

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

11 (A) the number of anticipated new permanent jobs  
12 the business will create;

13 (B) the anticipated number of permanent jobs the  
14 business will retain;

15 (C) the amount of investment to be made in the  
16 zone; and

17 (D) other information the office requires; and

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

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

25 (1) the willingness of public entities in the zone to  
26 provide services, incentives, and regulatory relief authorized by  
27 this chapter and to negotiate with the qualified business for which

1 application is made and with neighborhood enterprise associations  
2 and other local groups or businesses to achieve the public purposes  
3 of this chapter; and

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

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

8 (1) tax abatement, deferral, refunds, or other tax  
9 incentives;

10 (2) regulatory relief, including:

11 (A) zoning changes or variances;

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

14 (C) streamlined permitting;

15 (3) enhanced municipal services, including:

16 (A) improved police and fire protection;

17 (B) institution of community crime prevention  
18 programs; and

19 (C) special public transportation routes or  
20 reduced fares;

21 (4) improvements in community facilities, including:

22 (A) capital improvements in water and sewer  
23 facilities;

24 (B) road repair; and

25 (C) creation or improvement of parks;

26 (5) improvements to housing, including:

27 (A) low-interest loans for housing

1 rehabilitation, improvement, or new construction; and

2 (B) transfer of abandoned housing to individuals  
3 or community groups;

4 (6) business and industrial development services,  
5 including:

6 (A) low-interest loans for business;

7 (B) use of surplus school buildings or other  
8 underutilized publicly owned facilities as small business  
9 incubators;

10 (C) provision of publicly owned land for  
11 development purposes, including residential, commercial, or  
12 industrial development;

13 (D) creation of special one-stop permitting and  
14 problem resolution centers or ombudsmen; and

15 (E) promotion and marketing services; and

16 (7) job training and employment services, including:

17 (A) retraining programs;

18 (B) literacy and employment skills programs;

19 (C) vocational education; and

20 (D) customized job training.

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

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

25 (2) commitments to hire underskilled, inexperienced,  
26 disadvantaged, or displaced workers who reside in the enterprise  
27 zone;

1           (3) commitments to hire minority workers and to  
2 contract with minority-owned businesses;

3           (4) provision of technical and vocational job training  
4 for enterprise zone residents or economically disadvantaged  
5 employees;

6           (5) provision of child care for employees;

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

9           (7) prevention or reduction of juvenile crime  
10 activity; and

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

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

17           (1) the business is a qualified business under Section  
18 489.328 that is located in or has made a substantial commitment to  
19 locate in an enterprise zone described by Section 489.330(b);

20           (2) the governing body of the enterprise zone making  
21 the application has demonstrated that a high level of cooperation  
22 exists among public, private, and neighborhood entities in the  
23 zone;

24           (3) the designation will contribute significantly to  
25 the achievement of the plans of the governing body making the  
26 application for development and revitalization of the zone; and

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



1           (A) the permanent employees of the business will  
2 be permanently laid off;

3           (B) the business will close down permanently;

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

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

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

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

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

17           (1) 50 percent of the evaluation depends on the  
18 economic distress of:

19           (A) the enterprise zone in which a proposed  
20 enterprise project is located; and

21           (B) the area within the enterprise zone where the  
22 project is located;

23           (2) 25 percent of the evaluation depends on the local  
24 effort to achieve development and revitalization of the enterprise  
25 zone; and

26           (3) 25 percent of the evaluation depends on the  
27 evaluation criteria as determined by the office, which must

1 include:

2 (A) the level of cooperation and support the  
3 project applicant commits to the revitalization goals of the zone;  
4 and

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

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

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

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

16 (2) six, if the governing body of the enterprise zone  
17 is the governing body of a municipality or county with a population  
18 of 250,000 or more.

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

24 (b) Until September 1, 2005, the maximum number of new  
25 permanent jobs or retained jobs may not exceed 250, or a number  
26 equal to 110 percent of the number of anticipated new permanent jobs  
27 or retained jobs specified in the application for designation of

1 the business as an enterprise project under Section 489.331,  
2 whichever is less.

3 (c) Effective September 1, 2005, the maximum number of new  
4 permanent jobs or retained jobs may not exceed 625, or a number  
5 equal to 110 percent of the number of anticipated new permanent jobs  
6 or retained jobs specified in the application for designation of  
7 the business as an enterprise project under Section 489.331,  
8 whichever is less.

9 Section 489.334. DURATION OF CERTAIN DESIGNATIONS. The  
10 office's designation of a qualified business as an enterprise  
11 project is effective until the fifth anniversary of the date on  
12 which the designation is made regardless of whether the enterprise  
13 zone in which the project is located expires before the fifth  
14 anniversary of the project.

15 Section 489.335. EXEMPTIONS FROM STATE REGULATION;  
16 SUSPENSION OF LOCAL REGULATION. (a) A state agency may exempt from  
17 its regulation a qualified business, qualified employee, qualified  
18 property, or neighborhood enterprise association in an enterprise  
19 zone if the exemption is consistent with:

20 (1) the purposes of this subchapter; and

21 (2) the protection and promotion of the general health  
22 and welfare.

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

26 (c) An exemption from or suspension of regulation under this  
27 section must be adopted in the same manner that the regulation was

1 adopted.

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

4 (1) that relates to:

5 (A) civil rights;

6 (B) equal employment;

7 (C) equal opportunity;

8 (D) fair housing rights; or

9 (E) preservation of historical sites or  
10 historical artifacts;

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

13 (3) that is specifically imposed by law.

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

16 (1) tangible personal property located in the  
17 enterprise zone that was:

18 (A) acquired by a taxpayer not earlier than the  
19 90th day before the date on which the area was designated as an  
20 enterprise zone; and

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

23 (2) real property located in the enterprise zone that  
24 was:

25 (A) acquired by a taxpayer not earlier than the  
26 90th day before the date on which the area was designated as an  
27 enterprise zone and was used predominantly by the taxpayer in the

1 active conduct of a trade or business; or

2 (B) the principal residence of the taxpayer on  
3 the date of the sale or exchange; or

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

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

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

12 (2) the economic viability and profitability of  
13 business and commerce in enterprise zones.

14 (b) Annually each state agency shall:

15 (1) review the rules it administers that:

16 (A) may adversely affect:

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

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

21 (B) may otherwise affect the implementation of  
22 this chapter; and

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

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

27 (d) To contribute to the implementation of this subchapter,

1 an agency may waive, modify, provide exemptions to, or otherwise  
2 minimize the adverse effects of the rules it administers on the  
3 renovation, improvement, or new construction of housing in  
4 enterprise zones or on the economic viability and profitability of  
5 business and commerce in enterprise zones.

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

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

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

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

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

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

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

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

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

26 (a) Subject to Section 489.351, an enterprise project is entitled  
27 to:

1           (1) a refund of state taxes under Section 151.429. Tax  
2 Code; and

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

5           (b) Subject to Section 489.351, a qualified business is  
6 entitled to a refund of state taxes under Sections 151.431 and  
7 171.501, Tax Code.

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

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

16           (1) the purchase, lease, or rental of equipment or  
17 machinery for use in an enterprise zone;

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

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

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

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

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

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

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

12               (1) be written;

13               (2) contain an expiration date; and

14               (3) require that the person entitled to the refund  
15 provide to the municipality or county making the refund the  
16 documentation necessary to support a refund claim.

17       (f) The municipality or county shall make the refund  
18 directly to the person entitled to the refund in the manner provided  
19 by the agreement.

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

26       (b) A municipality with a population of 1,500,000 or more  
27 may agree to guarantee from hotel occupancy taxes the bonds or other



1 obligations of a municipally sponsored local government  
2 corporation created under the Texas Transportation Corporation Act  
3 (Article 15281, Vernon's Texas Civil Statutes) that were issued or  
4 incurred to pay the cost of construction, remodeling, or  
5 rehabilitation of a qualified hotel project.

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

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

12 (e) In this section, "eligible taxable proceeds" means  
13 taxable proceeds generated, paid, or collected by a qualified hotel  
14 project or a business at a qualified hotel project, including hotel  
15 occupancy taxes, ad valorem taxes, sales and use taxes, and mixed  
16 beverage taxes.

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

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

24 Section 489.342. TAX INCREMENT FINANCING AND ABATEMENT;  
25 LIMITATIONS ON APPRAISED VALUE. Designation of an area as an  
26 enterprise zone is also designation of the area as a reinvestment  
27 zone for:

- 1           (1) tax increment financing under Chapter 311, Tax  
2 Code;  
3           (2) tax abatement under Chapter 312, Tax Code; and  
4           (3) limitations on appraised value under Chapter 313,  
5 Tax Code.

6           Section 489.343. TAX EXEMPTION FOR NEIGHBORHOOD ENTERPRISE  
7 ASSOCIATION. A neighborhood enterprise association is exempt from  
8 state and local taxes during the period of the designation of the  
9 enterprise zone in which it is located. The exemption applies to  
10 tax arrearages and other back assessments on property leased under  
11 Section 489.347.

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

- 14           (1) Chapter 1433; or  
15           (2) the Development Corporation Act of 1979 (Article  
16 5190.6, Vernon's Texas Civil Statutes).

17           Section 489.345. INDUSTRIAL DEVELOPMENT CORPORATION. (a)  
18 The governing body of a municipality that is the governing body of  
19 an enterprise zone may create, in accordance with the Development  
20 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil  
21 Statutes), an industrial development corporation for use by the  
22 enterprise zone.

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

27           (c) The articles of incorporation of a corporation created

1 under this section must state that the corporation is governed by  
2 this section.

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

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

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

13 (2) give priority to the zone for the receipt of:  
14 (A) community development block grant money;  
15 (B) industrial revenue bonds; or  
16 (C) funds received under the federal Job Training  
17 Partnership Act (29 U.S.C. Section 1501 et seq.);

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

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

23 (5) establish permitting preferences for businesses  
24 in the zone;

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

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

1           (8) create a local enterprise zone fund for funding  
2 bonds or other programs or activities to develop or revitalize the  
3 zone;

4           (9) for qualified businesses in the zone, reduce rates  
5 charged by:

6                   (A) a utility owned by the municipality or  
7 county, as appropriate; or

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

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

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

15           (12) sell real property owned by the municipality or  
16 county, as appropriate, and located in the enterprise zone in  
17 accordance with Section 489.348.

18           (b) A reduction in utility rates under Subsection (a)(9)(B)  
19 is subject to the agreement of the affected utility and the approval  
20 of the appropriate regulatory authority. The rates may be reduced  
21 up to but not more than five percent below the lowest rate  
22 authorized for a person described by Subsection (a)(9)(B). A  
23 qualified enterprise project or the governing body of the  
24 enterprise zone may petition the appropriate utility and the  
25 appropriate regulatory authority to receive a reduced rate under  
26 this section, and the regulatory authority may order that rates be  
27 reduced. In making its determination under this section, the

1 regulatory authority shall consider revitalization goals for the  
2 enterprise zone. In setting the rates of the utility the  
3 appropriate regulatory authority shall allow the utility to recover  
4 the amount of the reduction.

5 Section 489.347. LEASE OF PUBLIC PROPERTY TO NEIGHBORHOOD  
6 ENTERPRISE ASSOCIATION. (a) The state or a local government may  
7 lease to a neighborhood enterprise association real property  
8 located in the association's geographical neighborhood area that is  
9 owned by the governmental entity and that is not being used by the  
10 entity.

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

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

17 Section 489.348. DISPOSITION OF PUBLIC PROPERTY IN  
18 ENTERPRISE ZONE. (a) After an area is designated as an enterprise  
19 zone, the state, a municipality, or a county that owns a surplus  
20 building or vacant land in the zone may dispose of the building or  
21 land by:

- 22 (1) selling the building or land at a public auction;  
23 (2) selling the land to a neighborhood enterprise  
24 association; or  
25 (3) establishing an urban homestead program described  
26 by Subsection (c).

27 (b) A municipality or county may sell a surplus building or

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

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

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

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

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

23 Section 489.349. WAIVER OF PERFORMANCE BOND. A  
24 subcontractor is not required to execute a performance bond under  
25 Chapter 2253 if:

26 (1) the construction, alteration, repair, or other  
27 public work to be performed under the contract is entirely in an

1 enterprise zone; and

2 (2) the amount of the contract does not exceed  
3 \$200,000.

4 Section 489.350. LIABILITY OF CONTRACTOR OR ARCHITECT. A  
5 contractor or architect who constructs or rehabilitates a building  
6 in an enterprise zone is liable for any structural defect in the  
7 building only for the period ending on the 10th anniversary of the  
8 date on which beneficial occupancy of the building begins after the  
9 construction or rehabilitation, notwithstanding a statute of  
10 limitations to the contrary.

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

16 (b) The comptroller may determine that the business or  
17 project is not entitled to a refund or credit of state taxes under  
18 Section 489.338 if the comptroller finds that:

19 (1) the business or project is not willing to  
20 cooperate with the comptroller with the information the comptroller  
21 needs to make the determination under Subsection (a); or

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

25 SUBCHAPTER D. ASSISTANCE TO DEFENSE DEPENDENT COMMUNITIES

26 Section 489.401. DEFENSE ECONOMIC READJUSTMENT ZONES. (a) The  
27 office shall assist:

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

3           (2) the governing body of a readjustment zone in  
4 obtaining assistance from another state agency, including job  
5 training and technical assistance to qualified businesses in a  
6 zone; and

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

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

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

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

21           Section 489.402. COORDINATION WITH OTHER GOVERNMENTAL  
22 ENTITIES. (a) In cooperation with the appropriate units of local  
23 government and other state agencies, the office shall coordinate  
24 and streamline state business assistance programs and permit or  
25 license application procedures for businesses in readjustment  
26 zones.

27           (b) The office shall work with the responsible state and



1 federal agencies to coordinate readjustment zone programs with  
2 other programs carried out in a readjustment zone, including  
3 housing, community and economic development, small business,  
4 banking, financial assistance, transportation, and employment  
5 training programs.

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

9 (d) For the purposes of this subchapter, territory in the  
10 extraterritorial jurisdiction of a municipality is considered to be  
11 in the jurisdiction of the municipality.

12 Section 489.403. CRITERIA FOR READJUSTMENT ZONE  
13 DESIGNATION. (a) To be designated as a readjustment zone an area  
14 must:

15 (1) have a continuous boundary;

16 (2) be at least one square mile but not larger than 20  
17 square miles, excluding lakes, waterways, and transportation  
18 arteries, of the municipality, county, or combination of  
19 municipalities or counties nominating the area as a readjustment  
20 zone;

21 (3) be located in an adversely affected  
22 defense-dependent community;

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

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

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

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

7           (1) the municipality or county requires assistance  
8 because of:

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

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

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

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

22           (2) the municipality or county is expected to  
23 experience, during the period between the beginning of the federal  
24 fiscal year during which an event described by Subdivision (1) is  
25 finally approved and the date that the event is to be substantially  
26 completed, a direct loss of:

27                   (A) 2,500 or more defense worker jobs in any area

1 of the municipality or county that is located in an urbanized area  
2 of a metropolitan statistical area;

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

6 (C) one percent of the civilian jobs in the  
7 municipality or county.

8 Section 489.405. NOMINATION OF READJUSTMENT ZONE. (a) The  
9 governing body of a municipality or county that is an adversely  
10 affected defense-dependent community, individually or in  
11 combination with other municipalities or counties that are  
12 adversely affected defense-dependent communities, by ordinance or  
13 order, as appropriate, may nominate as a readjustment zone an area  
14 within its jurisdiction that meets the criteria under Section  
15 489.403.

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

19 (c) The governing body of a county may not nominate  
20 territory in a municipality, including extraterritorial  
21 jurisdiction of a municipality, to be included in a proposed  
22 readjustment zone unless the governing body of the municipality  
23 also nominates the territory and together with the county files a  
24 joint application under Section 489.407.

25 (d) The governing bodies of a combination of municipalities  
26 or counties may not jointly nominate an area as a readjustment zone  
27 unless the governing bodies have entered into a binding agreement

1 to administer the zone jointly.

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

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

7 (2) state a finding that the area meets the  
8 requirements of this chapter;

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

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

13 (b) At least one of the incentives summarized under  
14 Subsection (a)(3) must not be offered elsewhere within the  
15 jurisdiction except within an enterprise zone designated under  
16 Subchapter C.

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

21 Section 489.407. APPLICATION FOR DESIGNATION. (a) For an  
22 area to be designated as a readjustment zone, the nominating body,  
23 after nominating the area as a readjustment zone, must send to the  
24 office a written application for designation of the area as a  
25 readjustment zone.

26 (b) The application must include:

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

- 1 appropriate, nominating the area as a readjustment zone;  
2           (2) a map of the area showing existing streets and  
3 highways;  
4           (3) an analysis and appropriate supporting documents  
5 and statistics demonstrating that the area qualifies for  
6 designation as a readjustment zone;  
7           (4) a statement that specifies each tax incentive,  
8 grant, other financial incentive or benefit, or program to be  
9 provided by the nominating body to business enterprises in the area  
10 that is not to be provided throughout the governmental entity or  
11 entities nominating the area as a readjustment zone;  
12           (5) a statement of the economic development and  
13 planning objectives for the area;  
14           (6) an estimate of the economic impact of the  
15 designation of the area as a readjustment zone on the revenues of  
16 the governmental entity or entities nominating the area as a  
17 readjustment zone, considering all the financial incentives and  
18 benefits and the programs contemplated;  
19           (7) a transcript or tape recording of all public  
20 hearings on the proposed zone;  
21           (8) if the application is a joint application, a  
22 description and copy of the agreement between the applicants;  
23           (9) the procedures for negotiating with residents,  
24 community groups, and other entities affected by the designation of  
25 the area as a readjustment zone and with qualified businesses in the  
26 area;  
27           (10) a description of the administrative authority, if

1 one is to be appointed for the readjustment zone under Section  
2 489.415; and

3 (11) any additional information the office requires.

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

6 Section 489.408. REVIEW OF APPLICATION. (a) On receipt of  
7 an application for the designation of a readjustment zone, the  
8 office shall review the application to determine if the nominated  
9 area qualifies for designation as a readjustment zone under this  
10 chapter.

11 (b) The office shall allow an applicant to correct any  
12 omission or clerical error in the application and to return the  
13 application to the office on or before the 15th day after the date  
14 on which the office receives the application.

15 Section 489.409. DESIGNATION AGREEMENT. (a) If the office  
16 determines that a nominated area for which a designation  
17 application has been received satisfies the criteria under Section  
18 489.403, the office shall negotiate with the nominating body for a  
19 designation agreement.

20 (b) A designation agreement must:

21 (1) designate the nominated area as a readjustment  
22 zone; and

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

27 (c) The office shall complete the negotiations and sign the

1 agreement not later than the 60th day after the date on which the  
2 application is received unless the office extends that period to  
3 the 90th day after the date on which the application was received.

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

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

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

15 (b) The office shall inform the nominating body of the  
16 specific reasons for denial of an application, including denial  
17 under Section 489.409(e).

18 Section 489.411. PERIOD OF DESIGNATION. An area may be  
19 designated as a readjustment zone for a maximum of seven years. A  
20 designation remains in effect until September 1 of the final year of  
21 the designation.

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

25 (b) The amended boundary:

26 (1) must be continuous;

27 (2) may not exceed the original size requirement of

1 Section 486.403; and

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

5 (c) The readjustment zone with the amended boundary must  
6 continue to meet the location requirements of Section  
7 486.403(a)(4).

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

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

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

17 (1) the area no longer meets the criteria for  
18 designation under this chapter or by rule adopted under this  
19 chapter; or

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

23 (b) The removal of a designation does not affect the  
24 validity of a tax incentive or regulatory relief granted or accrued  
25 before the removal.

26 Section 489.414. ADMINISTRATION BY GOVERNING BODY. The  
27 governing body of a readjustment zone is the governing body of the



1 municipality or county, or the governing bodies of the combination  
2 of municipalities or counties, that applied to have the area  
3 designated as a readjustment zone.

4 Section 489.415. ADMINISTRATION BY ADMINISTRATIVE  
5 AUTHORITY. (a) The governing body of a readjustment zone may  
6 delegate its administrative duties to an administrative authority  
7 appointed by the governing body.

8 (b) An administrative authority must:

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

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

13 (3) if the readjustment zone includes private  
14 residences, include:

15 (A) an elected official representing  
16 readjustment zone residents and businesses; or

17 (B) at least two readjustment zone residents.

18 Section 489.416. LIAISON. The governing body of a  
19 readjustment zone shall designate a liaison to communicate and  
20 negotiate with:

21 (1) the office;

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

23 (3) a defense readjustment project; and

24 (4) other entities in or affected by the readjustment  
25 zone.

26 Section 489.417. ANNUAL REPORT. (a) Not later than October  
27 1 of each year, the governing body of a readjustment zone shall

1 submit to the office a report in the form required by the office.

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

4 (c) The report must include for the year preceding the date  
5 of the report:

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

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

11 (3) the number of businesses assisted, located, and  
12 retained in the zone since its designation due to the existence of  
13 the readjustment zone;

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

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

18 Section 489.418. QUALIFIED BUSINESS. (a) A person is a  
19 qualified business if the office, for the purpose of state benefits  
20 under this chapter, or the governing body of a readjustment zone,  
21 for the purpose of local benefits, certifies that:

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

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

27 (A) residents of the governing jurisdiction;

1                   (B) economically disadvantaged individuals, as  
2 defined by Section 489.328(c); or

3                   (C) dislocated defense workers.

4           (b) The governing body of a readjustment zone may certify a  
5 franchise or subsidiary of a new or existing business as a qualified  
6 business if the franchise or subsidiary:

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

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

10           Section 489.419. PROHIBITION ON QUALIFIED BUSINESS  
11 CERTIFICATION. If the office determines that the governing body of  
12 a readjustment zone is not complying with this chapter, the office  
13 shall prohibit the certification of a qualified business in the  
14 zone until the office determines that the governing body is  
15 complying with this chapter. The office may not designate more than  
16 two businesses in a single readjustment zone as defense  
17 readjustment projects.

18           Section 489.420. REQUEST FOR APPLICATION FOR DEFENSE  
19 READJUSTMENT PROJECT DESIGNATION. A qualified business in a  
20 readjustment zone may request that the governing body of the  
21 readjustment zone apply to the office for designation of the  
22 business as a defense readjustment project. The request must also  
23 be made to the readjustment zone's administrative authority, if one  
24 exists.

25           Section 489.421. APPLICATION FOR DEFENSE READJUSTMENT  
26 PROJECT DESIGNATION. (a) If the governing body of a readjustment  
27 zone or the governing body and administrative authority of a

1 readjustment zone, as appropriate, approve a request made under  
2 Section 489.420, the governing body may apply to the office for the  
3 designation of the qualified business as a defense readjustment  
4 project.

5 (b) An application must:

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

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

14 (A) the number of anticipated new permanent jobs  
15 the business will create;

16 (B) the anticipated number of permanent jobs the  
17 business will retain;

18 (C) the amount of investment to be made in the  
19 zone; and

20 (D) other information the office requires; and

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

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

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

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

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

10           (1) tax abatement, deferral, refunds, or other tax  
11 incentives;

12           (2) regulatory relief, including:

13                   (A) zoning changes or variances;

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

16                   (C) streamlined permitting;

17           (3) enhanced municipal services, including:

18                   (A) improved police and fire protection;

19                   (B) institution of community crime prevention  
20 programs; and

21                   (C) special public transportation routes or  
22 reduced fares;

23           (4) improvements in community facilities, including:

24                   (A) capital improvements in water and sewer  
25 facilities;

26                   (B) road repair; and

27                   (C) creation or improvement of parks;

1           (5) improvements to housing, including:

2                   (A) low-interest loans for housing  
3 rehabilitation, improvement, or new construction; and

4                   (B) transfer of abandoned housing to individuals  
5 or community groups;

6           (6) business and industrial development services,  
7 including:

8                   (A) low-interest loans for business;

9                   (B) use of surplus school buildings or other  
10 underutilized publicly owned facilities as small business  
11 incubators;

12                   (C) provision of publicly owned land for  
13 development purposes, including residential, commercial, or  
14 industrial development;

15                   (D) creation of special one-stop permitting and  
16 problem resolution centers or ombudsmen; and

17                   (E) promotion and marketing services; and

18           (7) job training and employment services, including:

19                   (A) retraining programs;

20                   (B) literacy and employment skills programs;

21                   (C) vocational education; and

22                   (D) customized job training.

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

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

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

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

5           (4) provision of technical and vocational job training  
6 for residents of the nominating body's jurisdiction or economically  
7 disadvantaged employees;

8           (5) provision of child care for employees;

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

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

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

15           Section 489.422. DEFENSE READJUSTMENT PROJECT DESIGNATION.

16           (a) The office may designate a qualified business as a defense  
17 readjustment project only if the office determines that:

18           (1) the business is a qualified business under Section  
19 489.418 that is located in or has made a substantial commitment to  
20 locate in a defense readjustment zone;

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

25           (3) the designation will contribute significantly to  
26 the achievement of the plans of the governing body making the  
27 application for development and revitalization of the zone.

1       (b) The office shall designate qualified businesses as  
2 defense readjustment projects on a competitive basis. The office  
3 shall make its designation decisions using a weighted scale in  
4 which:

5           (1) 50 percent of the evaluation is based on the effect  
6 of the loss of defense expenditures and employment on the  
7 community;

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

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

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

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

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

22       Section 489.423. ALLOCATION OF JOBS ELIGIBLE FOR TAX  
23 REFUND. When the office designates a business as a defense  
24 readjustment project, the office shall allocate to the project the  
25 maximum number of new permanent jobs or retained jobs eligible to be  
26 included in a computation of a tax refund for the project. The  
27 number may not exceed 500 or a number equal to 110 percent of the



1 number of anticipated new permanent jobs or retained jobs specified  
2 in the application for designation of the business as a defense  
3 readjustment project under Section 489.421, whichever is less.

4 Section 489.424. DURATION OF CERTAIN DESIGNATIONS. The  
5 office's designation of a qualified business as a defense  
6 readjustment project is effective until the fifth anniversary of  
7 the date on which the designation is made regardless of whether the  
8 readjustment zone in which the project is located expires before  
9 the fifth anniversary of the project.

10 Section 489.425. EXEMPTIONS FROM STATE REGULATION;  
11 SUSPENSION OF LOCAL REGULATION. (a) A state agency may exempt from  
12 its regulation a qualified business, qualified employee, or  
13 qualified property in a readjustment zone if the exemption is  
14 consistent with:

15 (1) the purposes of this subchapter; and

16 (2) the protection and promotion of the general health  
17 and welfare.

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

21 (c) An exemption from or suspension of regulation under this  
22 section must be adopted in the same manner that the regulation was  
23 adopted.

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

26 (1) that relates to:

27 (A) civil rights;

1           (B) equal employment;

2           (C) equal opportunity;

3           (D) fair housing rights; or

4           (E) preservation of historical sites or  
5 historical artifacts;

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

8           (3) that is specifically imposed by law.

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

11           (1) tangible personal property located in the  
12 readjustment zone that was acquired from the federal government by  
13 lease or deed or:

14           (A) acquired by a taxpayer not earlier than the  
15 90th day before the date on which the area was designated as a  
16 readjustment zone; and

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

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

21           (A) acquired by a taxpayer not earlier than the  
22 90th day before the date on which the area was designated as a  
23 readjustment zone and was used predominantly by the taxpayer in the  
24 active conduct of a trade or business; or

25           (B) the principal residence of the taxpayer on  
26 the date of the sale or exchange; or

27           (3) an interest in an entity that was certified as a

1 qualified business under Section 489.418 for the entity's most  
2 recent tax year ending before the date of the sale or exchange.

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

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

8 (2) the economic viability and profitability of  
9 business and commerce in readjustment zones.

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

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

19 Section 489.427. STATE PREFERENCES. (a) A state agency  
20 shall give preference to the governing body of a readjustment zone  
21 or a qualified business or qualified employee located in a  
22 readjustment zone over other eligible applicants for grants, loans,  
23 or credit enhancements that are administered by the state agency  
24 if:

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

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

3                   (A) promote economic development in the  
4 community; or

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

7           (b) The comptroller may and is encouraged to deposit state  
8 money in financial institutions located or doing business in  
9 readjustment zones.

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

12           (d) The office or another state agency may give preference  
13 to readjustment zones in granting economic development money or  
14 other benefits.

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

16           (a) Subject to Section 489.437, a defense readjustment project is  
17 eligible for:

18                   (1) a refund of state taxes under Section 151.4291,  
19 Tax Code;

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

22                   (3) the exclusion of receipts from service performed  
23 in a readjustment zone in the determination of gross receipts from  
24 business done in this state under Sections 171.103 and 171.1032,  
25 Tax Code.

26           (b) Not later than the 60th day after the last day of each  
27 fiscal year, the comptroller shall report to the office the

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

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

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

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

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

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

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

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

25 (d) A person eligible for a refund of local sales and use  
26 taxes under this section shall pay the entire amount of state and  
27 local sales and use taxes at the time the taxes would be due if an

1 agreement for the refund did not exist.

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

4 (1) be written;

5 (2) contain an expiration date; and

6 (3) require that the person eligible for the refund  
7 provide to the municipality or county making the refund the  
8 documentation necessary to support a refund claim.

9 (f) The municipality or county shall make the refund  
10 directly to the person eligible for the refund in the manner  
11 provided by the agreement.

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

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

19 Section 489.431. TAX INCREMENT FINANCING AND ABATEMENT.  
20 Designation of an area as a readjustment zone is also designation of  
21 the area as a reinvestment zone for:

22 (1) tax increment financing under Chapter 311, Tax  
23 Code; and

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

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

27 (1) Chapter 1433; or

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

3           Section 489.433. OTHER LOCAL INCENTIVES. (a) The  
4 governing body of a municipality or county that is the governing  
5 body of a readjustment zone may:

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

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

11                   (A) community development block grant money;

12                   (B) industrial revenue bonds; or

13                   (C) funds received for job training;

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

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

19           (5) establish permitting preferences for businesses  
20 in the zone;

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

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

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

27           (9) for qualified businesses in the zone, reduce rates

1 charged by:

2 (A) a utility owned by the municipality or  
3 county, as appropriate; or

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

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

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

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

14 (b) A reduction in utility rates under Subsection (a)(9)(B)  
15 is subject to the agreement of the affected utility and the approval  
16 of the appropriate regulatory authority under Title 2, Utilities  
17 Code. The rates may be reduced up to but not more than five percent  
18 below the lowest rate allowable for that customer class. In making  
19 its determination under this section, the regulatory authority  
20 shall consider revitalization goals for the readjustment zone. In  
21 setting the rates of the utility the appropriate regulatory  
22 authority shall allow the utility to recover the amount of the  
23 reduction.

24 Section 489.434. DISPOSITION OF PUBLIC PROPERTY IN  
25 READJUSTMENT ZONE. (a) After an area is designated as a  
26 readjustment zone, the state, a municipality, or a county that owns  
27 a surplus building (including any structure) or vacant land in the



1 zone may dispose of the building or land by:

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

3 (2) selling the building or land without notice or  
4 bidding as provided by Subsection (d); or

5 (3) establishing an urban homestead program described  
6 by Subsection (e).

7 (b) A municipality or county may sell a surplus building or  
8 vacant land in the readjustment zone at less than fair market value  
9 if the governing body of the municipality or county by ordinance or  
10 order, as appropriate, adopts criteria that specify the conditions  
11 and circumstances under which the sale may occur and the public  
12 purpose to be achieved by the sale. A copy of the ordinance or order  
13 must be filed with the office not later than the day on which the  
14 sale occurs.

15 (c) If the surplus building or vacant land is sold at a  
16 public auction, the building or land may be sold to a buyer who is  
17 not the highest bidder if the criteria and public purpose specified  
18 in the ordinance or order adopted under Subsection (b) are  
19 satisfied.

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

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

26 (1) the state, municipality, or county is to sell to an  
27 individual a residence or part of a residence that it owns for an

1 amount not to exceed \$100;

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

7 (3) after the individual satisfies the seven-year  
8 residency and property improvement requirements of the agreement,  
9 the governmental entity shall assign the residence to the  
10 individual.

11 Section 489.435. WAIVER OF PERFORMANCE BOND. A  
12 subcontractor is not required to execute a performance bond under  
13 Chapter 2253 if:

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

17 (2) the amount of the contract does not exceed  
18 \$200,000.

19 Section 489.436. LIABILITY OF CONTRACTOR OR ARCHITECT. A  
20 contractor or architect who constructs or rehabilitates a building  
21 in a readjustment zone is liable for any structural defect in the  
22 building only for the period ending on the 10th anniversary of the  
23 date on which beneficial occupancy of the building begins after the  
24 construction or rehabilitation, notwithstanding a statute of  
25 limitations to the contrary.

26 Section 489.437. MONITORING DEFENSE READJUSTMENT PROJECT  
27 COMMITMENTS. (a) The office may monitor a defense readjustment

1 project to determine whether and to what extent the project has  
2 followed through on any commitments made by it or on its behalf  
3 under this subchapter.

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

7 (1) the project is not willing to cooperate with the  
8 office in providing the office with the information the office  
9 needs to make the determination under Subsection (a); or

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

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

16 (1) a municipality or county that is an adversely  
17 affected defense-dependent community;

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

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

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

27 (b) A municipality or county is an adversely affected

1 defense-dependent community if the office determines that:

2 (1) the municipality or county includes within its  
3 boundaries a defense facility that the office of defense or  
4 applicable military office has publicly proposed for closure or  
5 realignment; or

6 (2) the municipality or county:

7 (A) requires assistance because of:

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

10 (ii) the cancellation or termination of a  
11 United States Department of Defense contract or the failure of the  
12 department of defense to proceed with an approved major weapon  
13 system program;

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

17 (iv) the closure or a significant reduction  
18 of the operations of a defense facility as the result of a merger,  
19 acquisition, or consolidation of a defense contractor operating the  
20 facility; and

21 (B) is expected to experience, during the period  
22 between the beginning of the federal fiscal year during which an  
23 event described by Subdivision (2)(A) is finally approved and the  
24 date that the event is to be substantially completed, a direct loss  
25 of:

26 (i) 2,500 or more defense worker jobs in any  
27 area of the municipality or county that is located in an urbanized

1 area of a metropolitan statistical area;

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

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

7 (c) From money appropriated under this chapter, the office  
8 may make a grant to an eligible local governmental entity to allow  
9 the entity to meet a matching money or investment requirement in  
10 order to receive from the United States assistance that is provided  
11 to allow the local governmental entity to respond to or recover from  
12 an event described by Section 489.438(b). In addition, a grant may  
13 be made to an eligible local governmental entity to match the  
14 entity's contribution for a purpose described in Section 486.005 on  
15 a closed or realigned defense facility.

16 (d) A grant may not be less than \$50,000 or more than the  
17 least of:

18 (1) 50 percent of the amount of matching money or  
19 investment that the local governmental entity is required to  
20 provide, subject to Subsection (c);

21 (2) 50 percent of the local governmental entity's  
22 investment for purposes described in Section 486.005, in cases  
23 where United States assistance is not available; or

24 (3) \$2 million.

25 (e) If the local governmental entity demonstrates to the  
26 office that, because of a limited budget, resources are not  
27 available to provide 50 percent of the amount of matching money or

1 investment that the local governmental entity is required to  
2 provide, the grant may be not more than 80 percent of the amount of  
3 that matching money or investment requirement, but may not be more  
4 than \$2 million.

5 (f) The office may make a grant to an eligible local  
6 governmental entity described by Section 486.003(a)(3) or (4)  
7 without regard to the availability or acquisition of matching  
8 money.

9 (g) The local governmental entity may use the proceeds of  
10 the grant for purchase of property from the department of defense or  
11 its designated agent, new construction, rehabilitation, or  
12 renovation of facilities or infrastructure, or purchase of capital  
13 equipment or insurance.

14 (1) The local governmental entity may deliver the  
15 money to a special district, development corporation, or other  
16 instrumentality of the state or the local governmental entity for  
17 use as provided by this chapter and other applicable law.

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

23 (h) The office shall establish a defense economic  
24 adjustment assistance panel within the office. The panel consists  
25 of at least three and not more than five professional full-time  
26 employees of the office appointed by the executive director of the  
27 office.

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

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

8           (1) the significance of the adverse effect within the  
9 local governmental entity, including the number of jobs lost in  
10 relation to the workforce in the local governmental entity's  
11 jurisdiction and the effect on the area's economy and tax revenue;

12           (2) the extent to which the local governmental entity  
13 has used its existing resources to promote local economic  
14 development;

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

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

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

21       (k) The panel shall submit its scores to the office's  
22 governing body. The governing body shall use the scores to  
23 determine whether to make a grant to an applicant. The governing  
24 body may not make a grant unless the legislature has appropriated  
25 the money for the grant.

26       Section 489.439. REVOLVING LOANS TO COMMUNITIES  
27 POTENTIALLY AFFECTED BY DEFENSE BASE REDUCTION PROCESS. (a) The

1 office shall administer a revolving loan program for assistance to  
2 an eligible community in developing infrastructure to minimize the  
3 possibility of or the negative effects of defense base reduction on  
4 the eligible community. The loans may be granted to an eligible  
5 community before the neighboring defense base is closed.

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

8 (c) The office shall establish categories of eligible  
9 infrastructure projects for which an eligible community may apply  
10 for a loan.

11 SECTION 2. Section 151.429(g), Tax Code, is amended to read  
12 as follows:

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

25 SECTION 3. Section 151.4291(g), Tax Code, is amended to  
26 read as follows:

27 (g) The refund provided by this section is conditioned on



1 the defense readjustment project maintaining at least the same  
2 level of employment of qualified employees as existed at the time it  
3 qualified for a refund for a period of three years from that date.  
4 The comptroller [~~Texas Department of Economic Development~~] shall  
5 annually certify to [~~the comptroller and~~] the Legislative Budget  
6 Board whether that level of employment of qualified employees has  
7 been maintained. On [~~the Texas Department of Economic Development~~]  
8 certifying that such a level has not been maintained, the  
9 comptroller shall assess that portion of the refund attributable to  
10 any such decrease in employment, including penalty and interest  
11 from the date of the refund.

12 SECTION 4. Section 151.431, Tax Code, subsections (a), (b)  
13 and (c), are amended to read as follows:

14 Section 151.431. Sales and Use Tax Refund for Job  
15 Retention. (a) A qualified business operating in the enterprise  
16 zone's jurisdiction for at least three consecutive years may apply  
17 for and be granted a onetime refund of sales and use tax paid by the  
18 qualified business after certification of the qualified business as  
19 provided by Subsection (b) of this section to a vendor or directly  
20 to the state for the purchase of equipment or machinery sold to the  
21 business for use in an enterprise zone if the governing body or  
22 bodies certify to the comptroller [~~Texas Department of Economic  
23 Development~~] that the business is retaining 10 or more jobs held by  
24 qualified employees during the year. For the purposes of this  
25 subsection "job" means an existing employment position of a  
26 qualified business that has provided employment to a qualified  
27 employee of at least 1,820 hours annually.

1 (b) Only qualified businesses that have been certified as  
2 eligible for a refund under this section by the governing body or  
3 bodies to the ~~[department and by the department to the]~~  
4 comptroller, including certification of the number of jobs  
5 retained, are entitled to the refund. During each calendar year, no  
6 more than three eligible qualified businesses may be certified to  
7 the department by a municipality or county, subject to Subsection  
8 (c).

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

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

24 (2) governing bodies to follow uniform procedures or  
25 selection criteria in selecting the qualified businesses certified  
26 to it under this section.

27 SECTION 5. Section 171.501, Tax Code, subsections (a), (b)

1 and (c), are amended to read as follows:

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

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

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

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

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

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

10 SECTION 6. The following laws are repealed: (1) Section  
11 403.412, Government Code; (2) Section 481.023(c), Government Code;  
12 (3) Subchapters BB and N, Chapter 481, Government Code; (4) Chapter  
13 486, Government Code; (5) Chapter 2303, Government Code; (6)  
14 Chapter 2310, Government Code; and (7) Section 4 and Section 24,  
15 Subsections (a), (b) and (c), Development Corporation Act of 1979  
16 (Article 5190.6, Vernon's Texas Civil Statutes).

17 SECTION 7. EFFECTIVE DATE. This Act takes effect September  
18 1, 2003.