

By: Nelson

S.B. No. 275

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the abolition of the Texas Department of Economic
3 Development and the transfer of certain of its functions and the
4 functions of the Texas Aerospace Commission to the Texas Economic
5 Development Office.

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

7 SECTION 1. The heading to Chapter 481, Government Code, is
8 amended to read as follows:

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

10 SECTION 2. Section 481.001, Government Code, is amended by
11 adding Subdivisions (5) and (6) to read as follows:

12 (5) "Industry cluster" means a concentration of
13 businesses and industries in a geographic region that are
14 interconnected by the markets they serve, the products they
15 produce, their suppliers, the trade associations to which their
16 employees belong, and the educational institutions from which their
17 employees or prospective employees receive training.

18 (6) "Office" means the Texas Economic Development
19 Office.

20 SECTION 3. Section 481.002, Government Code, is amended to
21 read as follows:

22 Sec. 481.002. OFFICE [~~DEPARTMENT~~]. The Texas [~~Department~~
23 ~~of~~] Economic Development Office is an office within the office of
24 the governor [~~agency of the state~~].

1 SECTION 4. Section 481.003, Government Code, is amended to
2 read as follows:

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

8 SECTION 5. Section 481.0042, Government Code, is amended by
9 amending Subsections (a), (b), (c), and (e), and adding Subsection
10 (f) to read as follows:

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

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

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

24 (3) uses or receives a substantial amount of tangible
25 goods, services, or funds from the office [~~department~~], other than
26 compensation or reimbursement authorized by law for employee
27 salaries and benefits [~~or for governing board membership,~~

1 ~~attendance, and expenses~~]; or

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

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

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

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

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

16 (4) is an officer, manager, or paid consultant of a
17 trade association of businesses in the field of economic
18 development or that contracts with the office [~~department~~].

19 (c) For the purposes of this section, a trade association is
20 a nonprofit, cooperative, and voluntarily joined association of
21 business or professional competitors in this state designed to
22 assist its members and its industry or profession in dealing with
23 mutual business or professional problems and in promoting their
24 common interest.

25 (e) A person may not be [~~a member of the governing board or~~
26 the executive director or an employee of the office [~~department~~] if
27 the person is required to register as a lobbyist under Chapter 305

1 because of the person's activities for compensation on behalf of a
2 business entity that has an interest in a contract with the office
3 [~~department~~] or a profession related to the operation of the office
4 [~~department~~].

5 (f) A person may not act as the general counsel to the office
6 if the person is required to register as a lobbyist under Chapter
7 305 because of the person's activities for compensation on behalf
8 of a profession related to the operation of the office.

9 SECTION 6. Subchapter A, Chapter 481, Government Code, is
10 amended by adding Section 481.0045 to read as follows:

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

14 (1) negotiated rulemaking procedures under Chapter
15 2008 for the adoption of office rules; and

16 (2) appropriate alternative dispute resolution
17 procedures under Chapter 2009 to assist in the resolution of
18 internal and external disputes under the office's jurisdiction.

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

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

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) serve as a resource for any training needed to
27 implement the procedures for negotiated rulemaking or alternative

1 dispute resolution; and

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

4 SECTION 7. The heading to Section 481.005, Government Code,
5 is amended to read as follows:

6 Sec. 481.005. EXECUTIVE DIRECTOR; [~~GOVERNING BOARD~~]
7 DUTIES.

8 SECTION 8. Subsections (a), (c), and (d), Section 481.005,
9 Government Code, are amended to read as follows:

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

13 (c) The executive director shall manage the affairs of the
14 office [~~department~~] under the direction of the governor [~~governing~~
15 ~~board~~]. ~~The executive director shall provide administrative support~~
16 ~~to the members of the governing board that is necessary for the~~
17 ~~performance of the functions of the members].~~

18 (d) The executive director [~~members of the governing board~~]
19 shall direct the activities of the office [~~department~~] and, in
20 performing that duty, shall establish policy, adopt rules, evaluate
21 the implementation of new legislation that affects the office's
22 [~~department's~~] duties, review and comment on the office's
23 [~~department's~~] budget, prepare an annual report of the office's
24 [~~department's~~] activities, conduct investigations and studies, and
25 develop long-range plans for the future goals and needs of the
26 office [~~department~~]. [~~The members of the policy board may not be~~
27 ~~involved in the daily operation of the department.~~]

1 SECTION 9. Subsection (a), Section 481.0065, Government
2 Code, is amended to read as follows:

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

4 (1) establish and maintain an Office of Defense
5 Affairs; and

6 (2) appoint a director to manage the Office of Defense
7 Affairs.

8 SECTION 10. Subchapter A, Chapter 481, Government Code, is
9 amended by adding Section 481.0066 to read as follows:

10 Sec. 481.0066. AEROSPACE OFFICE. (a) The office shall
11 establish and maintain an aerospace office.

12 (b) The office may hire a director of the aerospace office
13 and staff as necessary to perform the duties of the aerospace office
14 under this section.

15 (c) The aerospace office shall encourage economic
16 development in this state by fostering the development of aerospace
17 and aviation industries in Texas.

18 (d) The aerospace office shall:

19 (1) analyze space-related research currently
20 conducted in this state and may conduct activities designed to
21 further that research;

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

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

27 (4) make specific recommendations to the legislature

1 and the governor regarding the promotion of those industries;

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

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

9 SECTION 11. Section 481.008, Government Code, is amended to
10 read as follows:

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

13 (1) the state auditor in accordance with Chapter 321;
14 or

15 (2) a private auditing firm.

16 (b) The state auditor shall inform the executive director
17 [~~presiding officer of the governing board~~] when a financial audit
18 of the office [~~department~~] is not included in the audit plan for the
19 state for a fiscal year. The executive director [~~governing board~~]
20 shall ensure that the office [~~department~~] is audited under
21 Subsection (a)(2) during those fiscal years.

22 SECTION 12. Section 481.010, Government Code, is amended by
23 amending Subsections (a), (b), (e), and (f), and adding Subsection
24 (i) to read as follows:

25 (a) The executive director shall employ personnel necessary
26 for the performance of office [~~department~~] functions. In addition
27 to other personnel, the executive director shall employ a human

1 rights officer and an internal auditor. The internal auditor shall
2 report directly to the governor [~~governing board~~] and may consult
3 with the executive director or the executive director's designee.

4 (b) The executive director or the executive director's
5 designee shall provide to office [~~governing board members and~~
6 ~~department~~] employees, as often as necessary, information
7 regarding their qualifications for [~~office or~~] employment under
8 this chapter and their responsibilities under applicable laws
9 relating to standards of conduct for state [~~officers or~~] employees.

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

14 (f) The executive director or the executive director's
15 designee shall prepare and maintain a written policy statement to
16 assure implementation of a program of equal employment opportunity
17 under which all personnel transactions are made without regard to
18 race, color, disability, sex, religion, age, or national origin.
19 The policy statement must include:

20 (1) personnel policies, including policies relating
21 to recruitment, evaluation, selection, appointment, training, and
22 promotion of personnel that are in compliance with requirements of
23 the Commission on Human Rights;

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

26 (3) procedures by which a determination can be made of
27 significant underuse in the office [~~department~~] work force of all

1 persons for whom federal or state guidelines encourage a more
2 equitable balance; and

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

5 (i) The executive director or the executive director's
6 designee shall provide to office employees information and training
7 on the benefits and methods of participation in the state employee
8 incentive program.

9 SECTION 13. Section 481.011, Government Code, is amended to
10 read as follows:

11 Sec. 481.011. FISCAL REPORT. The executive director shall
12 file annually with the governor and the presiding officer of each
13 house of the legislature a complete and detailed written report
14 accounting for all funds received and disbursed by the office
15 [~~department~~] during the preceding fiscal year. The annual report
16 must be in the form and reported in the time provided by the General
17 Appropriations Act.

18 SECTION 14. Section 481.012, Government Code, is amended to
19 read as follows:

20 Sec. 481.012. PUBLIC INTEREST INFORMATION AND COMPLAINTS.
21 (a) The office [~~department~~] shall prepare information of public
22 interest describing the functions of the office [~~department~~] and
23 the office's [~~department's~~] procedures by which complaints are
24 filed with and resolved by the office [~~department~~]. The office
25 [~~department~~] shall make the information available to the public and
26 appropriate state agencies. The office shall provide to the person
27 filing the complaint and to each person who is a subject of the

1 complaint a copy of the office's policies and procedures relating
2 to complaint investigation and resolution.

3 (b) The office [~~department~~] shall keep an information file
4 about each complaint filed with the office [~~department~~] that the
5 office [~~department~~] has authority to resolve. The file must
6 include:

7 (1) the name of the person who filed the complaint;
8 (2) the date the complaint is received by the office;
9 (3) the subject matter of the complaint;
10 (4) the name of each person contacted in relation to
11 the complaint;

12 (5) a summary of the results of the review or
13 investigation of the complaint; and

14 (6) an explanation of the reason the file was closed,
15 if the office closed the file without taking action other than to
16 investigate the complaint.

17 (c) If a written complaint is filed with the office
18 [~~department~~] that the office [~~department~~] has authority to resolve,
19 the office [~~department~~], at least quarterly and until final
20 disposition of the complaint, shall notify the parties to the
21 complaint of the status of the complaint unless the notice would
22 jeopardize an undercover investigation.

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

1 accessibility.

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

7 SECTION 15. The heading to Subchapter B, Chapter 481,
8 Government Code, is amended to read as follows:

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

10 SECTION 16. Section 481.021, Government Code, is amended to
11 read as follows:

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

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

14 (1) adopt and enforce rules necessary to carry out
15 this chapter;

16 (2) adopt and use an official seal;

17 (3) accept gifts, grants, or loans from and contract
18 with any entity;

19 (4) sue and be sued;

20 (5) acquire and convey property or an interest in
21 property;

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

26 (7) hold patents, copyrights, trademarks, or other
27 evidence of protection or exclusivity issued under the laws of the

1 United States, any state, or any nation and may enter into license
2 agreements with any third parties for the receipt of fees,
3 royalties, or other monetary or nonmonetary value;

4 (8) sell advertisements in any medium; and

5 (9) exercise any other power necessary to carry out
6 this chapter.

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

10 (c) The office [~~department~~] shall deposit contributions
11 from private sources in a separate fund kept and held in escrow and
12 in trust by the comptroller for and on behalf of the office
13 [~~department~~] as funds held outside the treasury under Section
14 404.073, and the money contributed shall be used to carry out the
15 purposes of the office [~~department~~] and, to the extent possible,
16 the purposes specified by the donors. The comptroller may invest
17 and reinvest the money, pending its use, in the fund in investments
18 authorized by law for state funds that the comptroller considers
19 appropriate.

20 SECTION 17. Section 481.022, Government Code, is amended to
21 read as follows:

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

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

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

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

3 (3) promote and administer business and community
4 economic development programs and services in the state, including
5 business incentive programs;

6 (4) provide to businesses and communities in the state
7 assistance with exporting products and services to international
8 markets;

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

12 (6) establish a statewide strategy to address economic
13 growth and quality of life issues, a component of which is based on
14 the identification and development of industry clusters [~~provide~~
15 ~~businesses and local communities with timely and useful research~~
16 ~~and data services]; and~~

17 (7) establish an interstate lead generation program to
18 identify potential business partners to form networks in this state
19 [~~aggressively market and promote the business climate in the state~~
20 ~~and the state economic development business assistance programs and~~
21 ~~services through the use of available media and resources,~~
22 ~~including the Internet; and~~

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

25 SECTION 18. Section 481.023, Government Code, is amended to
26 read as follows:

27 Sec. 481.023. ADMINISTRATION OF OTHER STATUTES. (a) The

1 office [~~department~~] shall perform the administrative duties
2 prescribed under:

3 (1) Chapter 1433; and

4 (2) the Development Corporation Act of 1979 (Article
5 5190.6, Vernon's Texas Civil Statutes).

6 (b) The office [~~department~~] shall perform the
7 administrative duties formerly assigned to the Texas Department of
8 Economic Development, the Texas Economic Development Commission,
9 and the Enterprise Zone Board under Chapter 2303.

10 (c) The office [~~department~~] may not use money from the
11 general revenue fund to support the Texas leverage fund.

12 SECTION 19. Subsections (a), (e), and (f), Section 481.024,
13 Government Code, are amended to read as follows:

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

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

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

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

25 SECTION 20. Section 481.025, Government Code, is amended to
26 read as follows:

27 Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY

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

6 SECTION 21. Subchapter B, Chapter 481, Government Code, is
7 amended by adding Section 481.026 to read as follows:

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

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

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

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

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

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

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

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

27 SECTION 23. Section 481.029, Government Code, is amended to

1 read as follows:

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

6 SECTION 24. Subchapter B, Chapter 481, Government Code, is
7 amended by adding Section 481.030 to read as follows:

8 Sec. 481.030. IDENTIFICATION OF INDUSTRY CLUSTERS.

9 (a) The office shall work with industry associations and
10 organizations to identify regional and statewide industry
11 clusters.

12 (b) The activities of the office in identifying industry
13 clusters may include:

14 (1) conducting focus group discussions, facilitating
15 meetings, and conducting studies to identify:

16 (A) members of an industry cluster;

17 (B) the general economic state of the industry
18 cluster; and

19 (C) issues of common concern in the industry
20 cluster;

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

25 (3) providing methods for electronic communication
26 and information dissemination among members of the industry
27 clusters.

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

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

10 (1) diversify the economy;

11 (2) facilitate technology transfer; and

12 (3) increase value-added production.

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

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

17 (A) members of a targeted sector;

18 (B) the general economic state of the sector; and

19 (C) issues of common concern in the sector;

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

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

26 (A) employees of the office or private sector
27 consultants trained to organize and implement flexible networks;

1 and

2 (B) funding for potential flexible network
3 participants to organize and implement a flexible network;

4 (4) helping to establish research consortia;

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

7 (6) promoting cooperative market development
8 activities;

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

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

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

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

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

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

25 (1) formulate strategies to promote the economic
26 development of targeted sectors; and

27 (2) designate new targeted sectors.

1 SECTION 25. Section 481.043, Government Code, is amended to
2 read as follows:

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

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

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

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

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

17 SECTION 26. Section 481.047, Government Code, is amended to
18 read as follows:

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

25 SECTION 27. Section 481.0725, Government Code, is amended
26 to read as follows:

27 Sec. 481.0725. GENERAL POWERS AND DUTIES. The office

1 ~~[department]~~ shall:

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

5 ~~[(2)]~~ provide businesses with site selection
6 assistance and communities with investment leads;

7 (2) ~~[(3)]~~ develop a comprehensive business
8 recruitment marketing plan;

9 (3) ~~[(4)]~~ participate in international and domestic
10 trade shows, trade missions, marketing trips, and seminars; and

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

15 SECTION 28. Subsection (c), Section 481.073, Government
16 Code, is amended to read as follows:

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

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

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

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

1 provisions of the Texas Constitution, this subchapter, and any
2 covenants relating to the office's [~~department's~~] bonds in classes
3 of investments that the executive director [~~board~~] determines.

4 SECTION 29. Section 481.075, Government Code, is amended to
5 read as follows:

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

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

21 SECTION 30. Subdivision (2), Section 481.121, Government
22 Code, is amended to read as follows:

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

25 SECTION 31. Section 481.122, Government Code, is amended to
26 read as follows:

27 Sec. 481.122. CREATION. The business permit office is an

1 office within the Texas Economic Development Office [~~department~~].

2 SECTION 32. Section 481.123, Government Code, is amended to
3 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

13 SECTION 33. Subsections (a), (b), (c), (d), (f), and (h),
14 Section 481.124, Government Code, are amended to read as follows:

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

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

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

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

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

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

26 SECTION 34. Subsections (a), (b), (d), and (e), Section
27 481.125, Government Code, are amended to read as follows:

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

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

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

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

13 SECTION 35. Section 481.126, Government Code, is amended to
14 read as follows:

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

21 SECTION 36. Subsections (a), (c), and (d), Section 481.127,
22 Government Code, are amended to read as follows:

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

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

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

10 SECTION 37. Section 481.128, Government Code, is amended to
11 read as follows:

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

14 SECTION 38. Section 481.129, Government Code, is amended to
15 read as follows:

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

27 SECTION 39. Subsections (a), (d), and (e), Section 481.167,

1 Government Code, are amended to read as follows:

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

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

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

15 SECTION 40. Section 481.172, Government Code, as amended by
16 Chapters 1041 and 1275, Acts of the 75th Legislature, Regular
17 Session, 1997, is amended to read as follows:

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

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

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

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

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

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

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

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

14 (8) enter into a memorandum of understanding
15 ~~[cooperate fully]~~ with the Parks and Wildlife Department, the Texas
16 Department of Transportation, the Texas Historical Commission, and
17 the Texas Commission on the Arts to direct the efforts of these
18 agencies in all matters relating to ~~[promotion of]~~ tourism; and ~~[-]~~

19 (9) ~~(8)~~ promote and encourage the horse racing and
20 greyhound racing industry, if funds are appropriated for the
21 promotion or encouragement.

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

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

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

1 research; and

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

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

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

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

11 (i) priorities identified by the agency;

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

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

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

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

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

27 (B) establishes goals, objectives, and

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

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

6 SECTION 41. Section 481.174, Government Code, is amended to
7 read as follows:

8 Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS.

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

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

14 (1) the cost of advertisements;

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

17 (3) the size of advertisements; and

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

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

23 (d) The office is not required to follow the purchasing
24 goals and procedures prescribed by Section 2161.181 and Subchapter
25 F, Chapter 2161, for purchases made in connection with out-of-state
26 tourism advertising, including advertising placement services.

27 SECTION 42. Subsections (a), (b), (d), (e), (f), and (h),

1 Section 481.193, Government Code, are amended to read as follows:

2 (a) The office [~~department~~] shall establish a linked
3 deposit program to encourage commercial lending for the development
4 of:

- 5 (1) small businesses in enterprise zones;
6 (2) historically underutilized businesses;
7 (3) child-care services provided by and activities
8 engaged in this state by nonprofit organizations; and
9 (4) quality, affordable child-care services in this
10 state.

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

13 (d) After reviewing an application and determining that the
14 applicant is an eligible borrower and is creditworthy, the eligible
15 lending institution shall send the application for a linked deposit
16 loan to the office [~~department~~].

17 (e) The eligible lending institution shall certify the
18 interest rate applicable to the specific eligible borrower and
19 attach it to the application sent to the office [~~department~~].

20 (f) After reviewing each linked deposit loan application,
21 the executive director [~~of the department~~] shall recommend to the
22 comptroller the acceptance or rejection of the application.

23 (h) Before the placing of a linked deposit, the eligible
24 lending institution and the state, represented by the comptroller
25 and the office [~~department~~], shall enter into a written deposit
26 agreement containing the conditions on which the linked deposit is
27 made. The deposit agreement must provide that:

1 (1) the lending institution notify the comptroller if
2 the borrower to which the deposit is linked defaults on the loan;
3 and

4 (2) in the event of a default the comptroller may
5 withdraw the linked deposit.

6 SECTION 43. Section 481.194, Government Code, is amended to
7 read as follows:

8 Sec. 481.194. COMPLIANCE. (a) On acceptance of its
9 application to receive linked deposits, an eligible lending
10 institution shall loan money to an eligible borrower in accordance
11 with the deposit agreement and this subchapter. The eligible
12 lending institution shall forward a compliance report to the office
13 [~~department~~].

14 (b) The office [~~department~~] shall monitor compliance with
15 this subchapter and inform the comptroller of noncompliance on the
16 part of an eligible lending institution.

17 SECTION 44. Section 481.198, Government Code, is amended to
18 read as follows:

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

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

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

4 SECTION 45. Section 481.211, Government Code, is amended to
5 read as follows:

6 Sec. 481.211. POWERS AND DUTIES. The office [~~department~~]
7 shall:

8 (1) compile and update demographic and economic
9 information on the state;

10 (2) develop and update information products for local
11 communities on community economic development issues and practices
12 that encourage regional cooperation; and

13 (3) compile and disseminate information on economic
14 and industrial development trends and issues, including NAFTA,
15 emerging industries, and patterns of international trade and
16 investment.

17 SECTION 46. Section 481.212, Government Code, is amended to
18 read as follows:

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

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

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

3 SECTION 47. Subdivision (9), Section 481.401, Government
4 Code, is amended to read as follows:

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

10 SECTION 48. Subsection (c), Section 481.402, Government
11 Code, is amended to read as follows:

12 (c) Money in the fund may be appropriated only to the office
13 [~~department~~] for use in carrying out the purposes of this
14 subchapter.

15 SECTION 49. Section 481.404, Government Code, is amended to
16 read as follows:

17 Sec. 481.404. POWERS OF OFFICE [~~DEPARTMENT~~] IN
18 ADMINISTERING CAPITAL ACCESS FUND. In administering the fund, the
19 office [~~department~~] has the powers necessary to carry out the
20 purposes of this subchapter, including the power to:

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

24 (2) invest money at the office's [~~department's~~]
25 discretion in obligations determined proper by the office
26 [~~department~~], and select and use depositories for its money;

27 (3) employ personnel and counsel and pay the persons

1 from money in the fund legally available for that purpose; and

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

5 SECTION 50. Subsections (a) through (d), Section 481.405,
6 Government Code, are amended to read as follows:

7 (a) The office [~~department~~] shall establish a capital
8 access program to assist a participating financial institution in
9 making loans to businesses and nonprofit organizations that face
10 barriers in accessing capital.

11 (b) The office [~~department~~] shall use money in the fund to
12 make a deposit in a participating financial institution's reserve
13 account in an amount specified by this subchapter to be a source of
14 money the institution may receive as reimbursement for losses
15 attributable to loans in the program.

16 (c) The office [~~department~~] shall determine the eligibility
17 of a financial institution to participate in the program and may set
18 a limit on the number of eligible financial institutions that may
19 participate in the program.

20 (d) To participate in the program, an eligible financial
21 institution must enter into a participation agreement with the
22 office [~~department~~] that sets out the terms and conditions under
23 which the office [~~department~~] will make contributions to the
24 institution's reserve account and specifies the criteria for a loan
25 to qualify as a capital access loan.

26 SECTION 51. Subsection (a), Section 481.406, Government
27 Code, is amended to read as follows:

1 (a) The executive director [~~policy board~~] shall adopt rules
2 relating to the implementation of the program and any other rules
3 necessary to accomplish the purposes of this subchapter. The rules
4 may:

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

9 (2) authorize a consortium of financial institutions
10 to participate in the program subject to common underwriting
11 guidelines.

12 SECTION 52. Subsections (a) and (d), Section 481.407,
13 Government Code, are amended to read as follows:

14 (a) Except as otherwise provided by this subchapter, the
15 office [~~department~~] may not determine the recipient, amount, or
16 interest rate of a capital access loan or the fees or other
17 requirements related to the loan.

18 (d) A capital access loan may be sold on the secondary
19 market under conditions as may be determined by the office
20 [~~department~~].

21 SECTION 53. Subsections (a), (c), and (d), Section 481.408,
22 Government Code, are amended to read as follows:

23 (a) On approval by the office [~~department~~] and after
24 entering into a participation agreement with the office
25 [~~department~~], a participating financial institution making a
26 capital access loan shall establish a reserve account. The reserve
27 account shall be used by the institution only to cover any losses

1 arising from a default of a capital access loan made by the
2 institution under this subchapter or as otherwise provided by this
3 subchapter.

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

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

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

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

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

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

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

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

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

8 SECTION 54. Section 481.409, Government Code, is amended to
9 read as follows:

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

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

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

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

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

26 (2) six percent of the loan amount for any other
27 borrower.

1 SECTION 55. Subsections (b), (c), and (d), Section 481.410,
2 Government Code, are amended to read as follows:

3 (b) The state is entitled to earn interest on the amount of
4 contributions made by the office [~~department~~], borrower, and
5 institution to a reserve account under this subchapter. The office
6 [~~department~~] shall withdraw monthly or quarterly from a reserve
7 account the amount of the interest earned by the state. The office
8 [~~department~~] shall deposit the amount withdrawn under this
9 subsection into the fund.

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

16 (d) The office [~~department~~] shall withdraw from the
17 institution's reserve account the total amount in the account and
18 any interest earned on the account and deposit the amount in the
19 fund when:

20 (1) a financial institution is no longer eligible to
21 participate in the program or a participation agreement entered
22 into under this subchapter expires without renewal by the office
23 [~~department~~] or institution;

24 (2) the financial institution has no outstanding
25 capital access loans; and

26 (3) the financial institution has not made a capital
27 access loan within the preceding 24 months.

1 SECTION 56. Section 481.411, Government Code, is amended to
2 read as follows:

3 Sec. 481.411. ANNUAL REPORT. A participating financial
4 institution shall submit an annual report to the office
5 [~~department~~]. The report must:

6 (1) provide information regarding outstanding capital
7 access loans, capital access loan losses, and any other information
8 on capital access loans the office [~~department~~] considers
9 appropriate;

10 (2) state the total amount of loans for which the
11 office [~~department~~] has made a contribution from the fund under
12 this subchapter;

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

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

17 SECTION 57. Subsection (a), Section 481.412, Government
18 Code, is amended to read as follows:

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

21 SECTION 58. Section 481.414, Government Code, is amended to
22 read as follows:

23 Sec. 481.414. GIFTS AND GRANTS. The office [~~department~~]
24 may accept gifts, grants, and donations from any source for the
25 purposes of this subchapter.

26 SECTION 59. Subsections (b) and (d), Section 4, Development
27 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil

1 Statutes), are amended to read as follows:

2 (b) There is hereby created the Texas Small Business
3 Industrial Development Corporation which shall act on behalf of the
4 state to carry out the public purposes of this Act. The Texas Small
5 Business Industrial Development Corporation shall be considered to
6 be a corporation within the meaning of this Act, shall be organized
7 and governed in accordance with the provisions of this Act, and
8 shall have all of the powers, and shall be subject to all of the
9 limitations, provided for corporations by this Act, except as
10 otherwise provided by this section. For purposes of this Act, the
11 state shall be considered to be the unit under whose auspices the
12 Texas Small Business Industrial Development Corporation is created
13 [~~and the department shall be considered to be the governing body~~].
14 To the extent that the provisions of this section are inconsistent
15 with other provisions of this Act, the provisions of this section
16 shall control as to the existence, powers, limitations,
17 organization, administration, operation, and affairs of the Texas
18 Small Business Industrial Development Corporation.

19 (d) The governor shall appoint [~~members of the board of the~~
20 ~~department shall serve ex officio as~~] the board of directors of the
21 Texas Small Business Industrial Development Corporation. The
22 governor or the governor's designee and the executive director of
23 the Texas Economic Development Office serve as nonvoting ex officio
24 members of the board.

25 SECTION 60. Subsection (d), Section 156.251, Tax Code, is
26 amended to read as follows:

27 (d) An amount equal to the amount of revenue derived from

1 the collection of taxes imposed by this chapter at a rate of
2 one-half of one percent shall be allocated in the general revenue
3 fund to be used for economic development activities, including
4 tourism, of the Texas Economic Development Office [~~media~~
5 ~~advertising and other marketing activities of the Tourism Division~~
6 ~~of the Texas Department of Commerce~~]. Section 403.094(h),
7 Government Code, does not apply to funds described in this section.
8 This subsection takes effect October 1, 1994.

9 SECTION 61. (a) The Texas Department of Economic
10 Development is abolished and the offices of the members of the
11 governing board of the department serving on the effective date of
12 this Act are abolished.

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

17 SECTION 62. On September 1, 2003:

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

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

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

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

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

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

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

15 SECTION 63. (a) The executive director of the Texas
16 Department of Economic Development serving on the effective date of
17 this Act does not automatically become the executive director of
18 the Texas Economic Development Office. To become the executive
19 director of the Texas Economic Development Office, a person must
20 apply for the position and the person's employment in that capacity
21 must be approved by the governor.

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

1 must be approved by the governor or the executive director of the
2 office.

3 SECTION 64. A function or activity performed by the Texas
4 Department of Economic Development is transferred to the Texas
5 Economic Development Office as provided by this Act.

6 SECTION 65. The Texas Department of Economic Development or
7 the Texas Economic Development Office, as applicable, shall
8 establish a transition plan for the transfer described in Section
9 62 of this Act. The plan must include a reasonable timetable for
10 the effective reconstruction of the department's mission,
11 strategies, performance measures, functions, and staff, as they
12 relate to key economic clusters in this state.

13 SECTION 66. (a) On September 1, 2003:

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

17 (2) the executive director of the Texas Aerospace
18 Commission becomes the director of the aerospace office of the
19 Texas Economic Development Office.

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

24 SECTION 67. The following laws are repealed:

25 (1) Chapter 146, Education Code;

26 (2) Sections 481.001(1), (3), and (4), 481.004,
27 481.0041, 481.0043, 481.0044, 481.005(b), 481.006, 481.0068,

1 481.007, 481.010(c), 481.0231, 481.028, 481.041, 481.045, 481.059,
2 481.071, 481.073(a) and (b), 481.077, 481.084, 481.087, 481.1665,
3 481.168, 481.171, 481.201, and 481.403, Government Code;

4 (3) Subchapters G and CC, Chapter 481, Government
5 Code;

6 (4) Chapters 482 and 484, Government Code; and

7 (5) Section 39, Development Corporation Act of 1979
8 (Article 5190.6, Vernon's Texas Civil Statutes).

9 SECTION 68. This Act takes effect September 1, 2003.