

1-1 By: Nelson S.B. No. 275
1-2 (In the Senate - Filed February 21, 2003; February 27, 2003,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 24, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 275 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the abolition of the Texas Department of Economic
1-11 Development and the transfer of certain of its functions and the
1-12 functions of the Texas Aerospace Commission to the Texas Economic
1-13 Development Office.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. The heading to Chapter 481, Government Code, is
1-16 amended to read as follows:

1-17 CHAPTER 481. TEXAS [~~DEPARTMENT OF~~] ECONOMIC DEVELOPMENT OFFICE

1-18 SECTION 2. Section 481.001, Government Code, is amended by
1-19 adding Subdivisions (5) and (6) to read as follows:

1-20 (5) "Industry cluster" means a concentration of
1-21 businesses and industries in a geographic region that are
1-22 interconnected by the markets they serve, the products they
1-23 produce, their suppliers, the trade associations to which their
1-24 employees belong, and the educational institutions from which their
1-25 employees or prospective employees receive training.

1-26 (6) "Office" means the Texas Economic Development
1-27 Office.

1-28 SECTION 3. Section 481.002, Government Code, is amended to
1-29 read as follows:

1-30 Sec. 481.002. OFFICE [~~DEPARTMENT~~]. The Texas [~~Department~~
1-31 ~~of~~] Economic Development Office is an office within the office of
1-32 the governor [agency of the state].

1-33 SECTION 4. Section 481.003, Government Code, is amended to
1-34 read as follows:

1-35 Sec. 481.003. SUNSET PROVISION. The Texas [~~Department of~~]
1-36 Economic Development Office is subject to Chapter 325 (Texas Sunset
1-37 Act). Unless continued in existence as provided by that chapter,
1-38 the office [department] is abolished and this chapter expires
1-39 September 1, 2015 [2003].

1-40 SECTION 5. Section 481.0042, Government Code, is amended by
1-41 amending Subsections (a), (b), (c), and (e), and adding Subsection
1-42 (f) to read as follows:

1-43 (a) A person may not [~~serve as a public member of the~~
1-44 ~~governing board or~~] be the executive director or an employee of the
1-45 office employed in a "bona fide executive, administrative, or
1-46 professional capacity," as that phrase is used for purposes of
1-47 establishing an exemption to the overtime provisions of the federal
1-48 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
1-49 and its subsequent amendments, [~~department]~~ if the person:

1-50 (1) is employed by, participates in the management of,
1-51 or is a paid consultant of a business entity that contracts with the
1-52 office [~~department~~];

1-53 (2) owns or controls, directly or indirectly, more
1-54 than a 10 percent interest in a business entity or other
1-55 organization that contracts with the office [~~department~~];

1-56 (3) uses or receives a substantial amount of tangible
1-57 goods, services, or funds from the office [~~department~~], other than
1-58 compensation or reimbursement authorized by law for employee
1-59 salaries and benefits [~~or for governing board membership,~~
1-60 ~~attendance, and expenses~~]; or

1-61 (4) is an officer, employee, or paid consultant of a
1-62 trade association of businesses in the field of economic
1-63 development or that contracts with the office [department].

2-1 (b) A person may not ~~[serve as a public member of the~~
 2-2 ~~governing board or]~~ be the executive director or an employee of the
 2-3 office [department] if the person's spouse:

2-4 (1) is employed by, participates in the management of,
 2-5 or is a paid consultant of a business entity that contracts with the
 2-6 office [department];

2-7 (2) owns or controls, directly or indirectly, more
 2-8 than a 10 percent interest in a business entity or other
 2-9 organization that contracts with the office [department];

2-10 (3) uses or receives a substantial amount of tangible
 2-11 goods, services, or funds from the office [department]; or

2-12 (4) is an officer, manager, or paid consultant of a
 2-13 trade association of businesses in the field of economic
 2-14 development or that contracts with the office [department].

2-15 (c) For the purposes of this section, a trade association is
 2-16 a nonprofit, cooperative, and voluntarily joined association of
 2-17 business or professional competitors in this state designed to
 2-18 assist its members and its industry or profession in dealing with
 2-19 mutual business or professional problems and in promoting their
 2-20 common interest.

2-21 (e) A person may not be ~~[a member of the governing board or]~~
 2-22 the executive director or an employee of the office [department] if
 2-23 the person is required to register as a lobbyist under Chapter 305
 2-24 because of the person's activities for compensation on behalf of a
 2-25 business entity that has an interest in a contract with the office
 2-26 ~~[department]~~ or a profession related to the operation of the office
 2-27 ~~[department].~~

2-28 (f) A person may not act as the general counsel to the office
 2-29 if the person is required to register as a lobbyist under Chapter
 2-30 305 because of the person's activities for compensation on behalf
 2-31 of a profession related to the operation of the office.

2-32 SECTION 6. Subchapter A, Chapter 481, Government Code, is
 2-33 amended by adding Section 481.0045 to read as follows:

2-34 Sec. 481.0045. NEGOTIATED RULEMAKING AND ALTERNATIVE
 2-35 DISPUTE RESOLUTION POLICY. (a) The office shall develop and
 2-36 implement a policy to encourage the use of:

2-37 (1) negotiated rulemaking procedures under Chapter
 2-38 2008 for the adoption of office rules; and

2-39 (2) appropriate alternative dispute resolution
 2-40 procedures under Chapter 2009 to assist in the resolution of
 2-41 internal and external disputes under the office's jurisdiction.

2-42 (b) The office's procedures relating to alternative dispute
 2-43 resolution must conform, to the extent possible, to any model
 2-44 guidelines issued by the State Office of Administrative Hearings
 2-45 for the use of alternative dispute resolution by state agencies.

2-46 (c) The office shall designate a trained person to:

2-47 (1) coordinate the implementation of the policy
 2-48 adopted under Subsection (a);

2-49 (2) serve as a resource for any training needed to
 2-50 implement the procedures for negotiated rulemaking or alternative
 2-51 dispute resolution; and

2-52 (3) collect data concerning the effectiveness of those
 2-53 procedures, as implemented by the office.

2-54 SECTION 7. The heading to Section 481.005, Government Code,
 2-55 is amended to read as follows:

2-56 Sec. 481.005. EXECUTIVE DIRECTOR; ~~[GOVERNING BOARD]~~
 2-57 DUTIES.

2-58 SECTION 8. Subsections (a), (c), and (d), Section 481.005,
 2-59 Government Code, are amended to read as follows:

2-60 (a) The governor [governing board] shall appoint [employ]
 2-61 an executive director of the office [department] who serves at the
 2-62 pleasure of the governor [governing board].

2-63 (c) The executive director shall manage the affairs of the
 2-64 office [department] under the direction of the governor [governing
 2-65 board. The executive director shall provide administrative support
 2-66 to the members of the governing board that is necessary for the
 2-67 performance of the functions of the members].

2-68 (d) The executive director [members of the governing board]
 2-69 shall direct the activities of the office [department] and, in

3-1 performing that duty, shall establish policy, adopt rules, evaluate
 3-2 the implementation of new legislation that affects the office's
 3-3 ~~[department's]~~ duties, review and comment on the office's
 3-4 ~~[department's]~~ budget, prepare an annual report of the office's
 3-5 ~~[department's]~~ activities, conduct investigations and studies, and
 3-6 develop long-range plans for the future goals and needs of the
 3-7 office ~~[department]~~. ~~[The members of the policy board may not be~~
 3-8 ~~involved in the daily operation of the department.]~~

3-9 SECTION 9. Subsection (a), Section 481.0065, Government
 3-10 Code, is amended to read as follows:

3-11 (a) The office ~~[department]~~ shall:

3-12 (1) establish and maintain an Office of Defense
 3-13 Affairs; and

3-14 (2) appoint a director to manage the Office of Defense
 3-15 Affairs.

3-16 SECTION 10. Subchapter A, Chapter 481, Government Code, is
 3-17 amended by adding Section 481.0066 to read as follows:

3-18 Sec. 481.0066. AEROSPACE OFFICE. (a) The office shall
 3-19 establish and maintain an aerospace office.

3-20 (b) The office may hire a director of the aerospace office
 3-21 and staff as necessary to perform the duties of the aerospace office
 3-22 under this section.

3-23 (c) The aerospace office shall encourage economic
 3-24 development in this state by fostering the development of aerospace
 3-25 and aviation industries in Texas.

3-26 (d) The aerospace office shall:

3-27 (1) analyze space-related research currently
 3-28 conducted in this state and may conduct activities designed to
 3-29 further that research;

3-30 (2) analyze the state's economic position in the
 3-31 aerospace and aviation industries;

3-32 (3) develop short-term and long-term business
 3-33 strategies to promote the retention, development, and expansion of
 3-34 aerospace and aviation industry facilities in the state;

3-35 (4) make specific recommendations to the legislature
 3-36 and the governor regarding the promotion of those industries;

3-37 (5) act as a liaison with other state and federal
 3-38 entities with related economic, educational, and defense
 3-39 responsibilities to support the marketing of the state's aerospace
 3-40 and aviation capabilities; and

3-41 (6) provide technical support and expertise to the
 3-42 state and to local spaceport authorities regarding aerospace and
 3-43 aviation business matters.

3-44 SECTION 11. Section 481.008, Government Code, is amended to
 3-45 read as follows:

3-46 Sec. 481.008. AUDIT. (a) The financial transactions of
 3-47 the office ~~[department]~~ are subject to audit by:

3-48 (1) the state auditor in accordance with Chapter 321;
 3-49 or

3-50 (2) a private auditing firm.

3-51 (b) The state auditor shall inform the executive director
 3-52 ~~[presiding officer of the governing board]~~ when a financial audit
 3-53 of the office ~~[department]~~ is not included in the audit plan for the
 3-54 state for a fiscal year. The executive director ~~[governing board]~~
 3-55 shall ensure that the office ~~[department]~~ is audited under
 3-56 Subsection (a)(2) during those fiscal years.

3-57 SECTION 12. Section 481.010, Government Code, is amended by
 3-58 amending Subsections (a), (b), (e), and (f), and adding Subsection
 3-59 (i) to read as follows:

3-60 (a) The executive director shall employ personnel necessary
 3-61 for the performance of office ~~[department]~~ functions. In addition
 3-62 to other personnel, the executive director shall employ a human
 3-63 rights officer and an internal auditor. The internal auditor shall
 3-64 report directly to the governor ~~[governing board]~~ and may consult
 3-65 with the executive director or the executive director's designee.

3-66 (b) The executive director or the executive director's
 3-67 designee shall provide to office ~~[governing board members and~~
 3-68 ~~department]~~ employees, as often as necessary, information
 3-69 regarding their qualifications for ~~[office or]~~ employment under

4-1 this chapter and their responsibilities under applicable laws
 4-2 relating to standards of conduct for state ~~[officers or]~~ employees.

4-3 (e) The executive director or the executive director's
 4-4 designee shall develop a system of annual performance evaluations.
 4-5 All merit pay for office ~~[department]~~ employees must be based on the
 4-6 system established under this subsection.

4-7 (f) The executive director or the executive director's
 4-8 designee shall prepare and maintain a written policy statement to
 4-9 assure implementation of a program of equal employment opportunity
 4-10 under which all personnel transactions are made without regard to
 4-11 race, color, disability, sex, religion, age, or national origin.
 4-12 The policy statement must include:

4-13 (1) personnel policies, including policies relating
 4-14 to recruitment, evaluation, selection, appointment, training, and
 4-15 promotion of personnel that are in compliance with requirements of
 4-16 the Commission on Human Rights;

4-17 (2) a comprehensive analysis of the office
 4-18 ~~[department]~~ work force that meets federal and state guidelines;

4-19 (3) procedures by which a determination can be made of
 4-20 significant underuse in the office ~~[department]~~ work force of all
 4-21 persons for whom federal or state guidelines encourage a more
 4-22 equitable balance; and

4-23 (4) reasonable methods to appropriately address those
 4-24 areas of significant underuse.

4-25 (i) The executive director or the executive director's
 4-26 designee shall provide to office employees information and training
 4-27 on the benefits and methods of participation in the state employee
 4-28 incentive program.

4-29 SECTION 13. Section 481.011, Government Code, is amended to
 4-30 read as follows:

4-31 Sec. 481.011. FISCAL REPORT. The executive director shall
 4-32 file annually with the governor and the presiding officer of each
 4-33 house of the legislature a complete and detailed written report
 4-34 accounting for all funds received and disbursed by the office
 4-35 ~~[department]~~ during the preceding fiscal year. The annual report
 4-36 must be in the form and reported in the time provided by the General
 4-37 Appropriations Act.

4-38 SECTION 14. Section 481.012, Government Code, is amended to
 4-39 read as follows:

4-40 Sec. 481.012. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

4-41 (a) The office ~~[department]~~ shall prepare information of public
 4-42 interest describing the functions of the office ~~[department]~~ and
 4-43 the office's ~~[department's]~~ procedures by which complaints are
 4-44 filed with and resolved by the office ~~[department]~~. The office
 4-45 ~~[department]~~ shall make the information available to the public and
 4-46 appropriate state agencies. The office shall provide to the person
 4-47 filing the complaint and to each person who is a subject of the
 4-48 complaint a copy of the office's policies and procedures relating
 4-49 to complaint investigation and resolution.

4-50 (b) The office ~~[department]~~ shall keep an information file
 4-51 about each complaint filed with the office ~~[department]~~ that the
 4-52 office ~~[department]~~ has authority to resolve. The file must
 4-53 include:

4-54 (1) the name of the person who filed the complaint;
 4-55 (2) the date the complaint is received by the office;
 4-56 (3) the subject matter of the complaint;
 4-57 (4) the name of each person contacted in relation to
 4-58 the complaint;

4-59 (5) a summary of the results of the review or
 4-60 investigation of the complaint; and

4-61 (6) an explanation of the reason the file was closed,
 4-62 if the office closed the file without taking action other than to
 4-63 investigate the complaint.

4-64 (c) If a written complaint is filed with the office
 4-65 ~~[department]~~ that the office ~~[department]~~ has authority to resolve,
 4-66 the office ~~[department]~~, at least quarterly and until final
 4-67 disposition of the complaint, shall notify the parties to the
 4-68 complaint of the status of the complaint unless the notice would
 4-69 jeopardize an undercover investigation.

5-1 (d) [~~(c)~~] The office [~~governing board~~] shall prepare and
 5-2 maintain a written plan that describes how a person who does not
 5-3 speak English can be provided reasonable access to the office's
 5-4 [~~department's~~] programs. The office [~~governing board~~] shall also
 5-5 comply with federal and state laws for program and facility
 5-6 accessibility.

5-7 (e) [~~(d)~~] The executive director [~~governing board~~] by rule
 5-8 shall establish methods by which consumers and service recipients
 5-9 are notified of the name, mailing address, and telephone number of
 5-10 the office [~~department~~] for the purpose of directing complaints to
 5-11 the office [~~department~~].

5-12 SECTION 15. The heading to Subchapter B, Chapter 481,
 5-13 Government Code, is amended to read as follows:

5-14 SUBCHAPTER B. GENERAL POWERS AND DUTIES OF OFFICE [~~DEPARTMENT~~]

5-15 SECTION 16. Section 481.021, Government Code, is amended to
 5-16 read as follows:

5-17 Sec. 481.021. GENERAL POWERS OF OFFICE [~~DEPARTMENT~~].

5-18 (a) The office [~~department~~] may:

5-19 (1) adopt and enforce rules necessary to carry out
 5-20 this chapter;

5-21 (2) adopt and use an official seal;

5-22 (3) accept gifts, grants, or loans from and contract
 5-23 with any entity;

5-24 (4) sue and be sued;

5-25 (5) acquire and convey property or an interest in
 5-26 property;

5-27 (6) procure insurance and pay premiums on insurance of
 5-28 any type, in accounts, and from insurers as the office [~~department~~]
 5-29 considers necessary and advisable to accomplish any of the office's
 5-30 [~~department's~~] purposes;

5-31 (7) hold patents, copyrights, trademarks, or other
 5-32 evidence of protection or exclusivity issued under the laws of the
 5-33 United States, any state, or any nation and may enter into license
 5-34 agreements with any third parties for the receipt of fees,
 5-35 royalties, or other monetary or nonmonetary value;

5-36 (8) sell advertisements in any medium; and

5-37 (9) exercise any other power necessary to carry out
 5-38 this chapter.

5-39 (b) Except as otherwise provided by this chapter, money paid
 5-40 to the office [~~department~~] under this chapter shall be deposited in
 5-41 the state treasury.

5-42 (c) The office [~~department~~] shall deposit contributions
 5-43 from private sources in a separate fund kept and held in escrow and
 5-44 in trust by the comptroller for and on behalf of the office
 5-45 [~~department~~] as funds held outside the treasury under Section
 5-46 404.073, and the money contributed shall be used to carry out the
 5-47 purposes of the office [~~department~~] and, to the extent possible,
 5-48 the purposes specified by the donors. The comptroller may invest
 5-49 and reinvest the money, pending its use, in the fund in investments
 5-50 authorized by law for state funds that the comptroller considers
 5-51 appropriate.

5-52 SECTION 17. Section 481.022, Government Code, is amended to
 5-53 read as follows:

5-54 Sec. 481.022. GENERAL DUTIES OF OFFICE [~~DEPARTMENT~~]. The
 5-55 office [~~department~~] shall:

5-56 (1) market and promote the state as a premier business
 5-57 location and tourist destination;

5-58 (2) facilitate the location, expansion, and retention
 5-59 of domestic and international business investment to the state;

5-60 [~~(2) provide statewide toll-free information and~~
 5-61 ~~referrals for business and community economic development;~~]

5-62 (3) promote and administer business and community
 5-63 economic development programs and services in the state, including
 5-64 business incentive programs;

5-65 (4) provide to businesses and communities in the state
 5-66 assistance with exporting products and services to international
 5-67 markets;

5-68 (5) serve as a central source of economic research and
 5-69 information [~~promote the state as a premier tourist and business~~]

6-1 ~~travel destination]; and~~

6-2 (6) establish a statewide strategy to address economic
 6-3 growth and quality of life issues, a component of which is based on
 6-4 the identification and development of industry clusters [~~provide~~
 6-5 ~~businesses and local communities with timely and useful research~~
 6-6 ~~and data services,~~

6-7 [~~(7) aggressively market and promote the business~~
 6-8 ~~climate in the state and the state economic development business~~
 6-9 ~~assistance programs and services through the use of available media~~
 6-10 ~~and resources, including the Internet, and~~

6-11 [~~(8) seek funding of the department programs and~~
 6-12 ~~activities from federal, state, and private sources].~~

6-13 SECTION 18. Section 481.023, Government Code, is amended to
 6-14 read as follows:

6-15 Sec. 481.023. ADMINISTRATION OF OTHER STATUTES. (a) The
 6-16 office [~~department~~] shall perform the administrative duties
 6-17 prescribed under:

6-18 (1) Chapter 1433; and

6-19 (2) the Development Corporation Act of 1979 (Article
 6-20 5190.6, Vernon's Texas Civil Statutes).

6-21 (b) The office [~~department~~] shall perform the
 6-22 administrative duties formerly assigned to the Texas Department of
 6-23 Economic Development, the Texas Economic Development Commission,
 6-24 and the Enterprise Zone Board under Chapter 2303.

6-25 (c) The office [~~department~~] may not use money from the
 6-26 general revenue fund to support the Texas leverage fund.

6-27 SECTION 19. Subsections (a), (e), and (f), Section 481.024,
 6-28 Government Code, are amended to read as follows:

6-29 (a) The Texas Economic Development Corporation on behalf of
 6-30 the state shall carry out the public purposes of this chapter. The
 6-31 creation of the corporation does not limit or impair the rights,
 6-32 powers, and duties of the office [~~department~~] provided by this
 6-33 chapter. The corporate existence of the Texas Economic Development
 6-34 Corporation begins on the issuance of a certificate of
 6-35 incorporation by the secretary of state. The governor shall
 6-36 appoint [~~members of the governing board serve ex officio as~~] the
 6-37 board of directors of the corporation. The governor or the
 6-38 governor's designee and the executive director serve as nonvoting,
 6-39 ex officio members of the board. The corporation has the powers and
 6-40 is subject to the limitations provided for the office [~~department~~]
 6-41 by this chapter in carrying out the public purposes of this chapter.
 6-42 The corporation has the rights and powers of a nonprofit
 6-43 corporation incorporated under the Texas Non-Profit Corporation
 6-44 Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)
 6-45 except to the extent inconsistent with this section. The
 6-46 corporation may contract with the office [~~department~~] and with bond
 6-47 counsel, financial advisors, or underwriters as its board of
 6-48 directors considers necessary.

6-49 (e) If the board of directors by resolution determines that
 6-50 the purposes for which the corporation was formed have been
 6-51 substantially complied with and that all bonds issued by the
 6-52 corporation have been fully paid, the board of directors shall
 6-53 dissolve the corporation. On dissolution, the title to all funds
 6-54 and properties then owned by the corporation shall be transferred
 6-55 to the office [~~department~~].

6-56 (f) The Texas Economic Development Corporation and any
 6-57 other corporation whose charter specifically dedicates the
 6-58 corporation's activities to the benefit of the office or the Texas
 6-59 Department of Economic Development or its predecessor agency shall
 6-60 file an annual report of the financial activity of the corporation.
 6-61 The annual report shall be filed prior to the 90th day after the
 6-62 last day for the corporation's fiscal year and shall be prepared in
 6-63 accordance with generally accepted accounting principles. The
 6-64 report must include a statement of support, revenue, and expenses
 6-65 and change in fund balances, a statement of functional expenses,
 6-66 and balance sheets for all funds.

6-67 SECTION 20. Section 481.025, Government Code, is amended to
 6-68 read as follows:

6-69 Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY

7-1 PROGRAM. The office [~~department~~] is the agency of this state
 7-2 responsible for administering the Empowerment Zone and Enterprise
 7-3 Community grant program in this state. The office [~~department~~]
 7-4 shall cooperate with appropriate federal and local agencies as
 7-5 necessary to administer the grant program.

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

7-8 Sec. 481.026. TECHNOLOGICAL SOLUTIONS. The office shall
 7-9 develop and implement a policy that requires the executive director
 7-10 and the staff of the office to research and propose appropriate
 7-11 technological solutions to improve the ability of the office to
 7-12 perform its mission. The technological solutions must include
 7-13 measures to ensure that the public is able to easily find
 7-14 information about the office through the Internet, and that persons
 7-15 who have a reason to use the office's services are able to use the
 7-16 Internet to interact with the office and to access any service that
 7-17 can be provided effectively through the Internet. The policy shall
 7-18 also ensure that the proposed technological solutions are cost
 7-19 effective and developed through the office's planning processes.

7-20 SECTION 22. Subsections (a) through (e), Section 481.027,
 7-21 Government Code, are amended to read as follows:

7-22 (a) The office [~~department~~] shall maintain and operate
 7-23 offices in foreign countries for the purposes of promoting
 7-24 investment that generates jobs in Texas, exporting of Texas
 7-25 products, tourism, and international relations for Texas. The
 7-26 foreign offices shall be named "The State of Texas" offices. To the
 7-27 extent permitted by law, other state agencies that conduct business
 7-28 in foreign countries may place staff in the foreign offices
 7-29 established by the office [~~department~~] and share the overhead and
 7-30 operating expenses of the foreign offices. Other state agencies
 7-31 and the office [~~department~~] may enter interagency contracts for
 7-32 this purpose. Chapter 771 does not apply to those contracts. Any
 7-33 purchase for local procurement or contract in excess of \$5,000
 7-34 shall be approved by the executive director prior to its execution.

7-35 (b) The foreign offices shall be accessible to Texas-based
 7-36 institutions of higher education and their nonprofit affiliates for
 7-37 the purposes of fostering Texas science, technology, and research
 7-38 development, international trade and investment, and cultural
 7-39 exchange. The office [~~department~~] and the institutions may enter
 7-40 contracts for this purpose. Chapter 771 does not apply to those
 7-41 contracts.

7-42 (c) The office [~~department~~] shall maintain regional offices
 7-43 in locations specified in the General Appropriations Act.

7-44 (d) The office [~~department~~] may collect fees for the use of
 7-45 the foreign offices from public and private entities except that
 7-46 any payments by a state agency are governed by any interagency
 7-47 contract under Subsection (a). The fees may be used only to expand,
 7-48 develop, and operate foreign offices under this section.

7-49 (e) Chapter 2175 applies to the operation and maintenance of
 7-50 the foreign offices. No other provisions of Subtitle D, Title 10,
 7-51 apply to the operation and maintenance of the foreign offices, or to
 7-52 transactions of the office [~~department~~] that are authorized by this
 7-53 section.

7-54 SECTION 23. Section 481.029, Government Code, is amended to
 7-55 read as follows:

7-56 Sec. 481.029. COST RECOVERY. The office [~~department~~]
 7-57 shall recover the cost of providing direct technical assistance,
 7-58 management training services, and other services to businesses and
 7-59 communities when reasonable and practical.

7-60 SECTION 24. Subchapter B, Chapter 481, Government Code, is
 7-61 amended by adding Section 481.030 to read as follows:

7-62 Sec. 481.030. IDENTIFICATION OF INDUSTRY CLUSTERS.
 7-63 (a) The office shall work with industry associations and
 7-64 organizations to identify regional and statewide industry
 7-65 clusters.

7-66 (b) The activities of the office in identifying industry
 7-67 clusters may include:

7-68 (1) conducting focus group discussions, facilitating
 7-69 meetings, and conducting studies to identify:

8-1 (A) members of an industry cluster;
 8-2 (B) the general economic state of the industry
 8-3 cluster; and
 8-4 (C) issues of common concern in the industry
 8-5 cluster;
 8-6 (2) supporting the formation of industry cluster
 8-7 associations, publishing industry cluster association directories,
 8-8 and encouraging the entry of new members into the industry cluster;
 8-9 and
 8-10 (3) providing methods for electronic communication
 8-11 and information dissemination among members of the industry
 8-12 clusters.

8-13 (c) The office shall identify an industry cluster as a
 8-14 targeted sector if the office determines that the development of
 8-15 the industry cluster is a high priority.

8-16 (d) The office shall work with targeted sectors, private
 8-17 sector organizations, local governments, local economic
 8-18 development organizations, and higher education and training
 8-19 institutions to develop strategies to strengthen the
 8-20 competitiveness of industry clusters. The strategies shall be
 8-21 designed to:

- 8-22 (1) diversify the economy;
- 8-23 (2) facilitate technology transfer; and
- 8-24 (3) increase value-added production.

8-25 (e) The activities of the office to assist the development
 8-26 of a targeted sector may include:

8-27 (1) conducting focus group discussions, facilitating
 8-28 meetings, and conducting studies to identify:

- 8-29 (A) members of a targeted sector;
- 8-30 (B) the general economic state of the sector; and
- 8-31 (C) issues of common concern in the sector;

8-32 (2) supporting the formation of industry
 8-33 associations, publishing industry association directories, and
 8-34 creating or expanding the activities of the industry associations;

8-35 (3) assisting in the formation of flexible networks
 8-36 between persons interested in the development of the targeted
 8-37 sector by providing:

8-38 (A) employees of the office or private sector
 8-39 consultants trained to organize and implement flexible networks;
 8-40 and

8-41 (B) funding for potential flexible network
 8-42 participants to organize and implement a flexible network;

8-43 (4) helping to establish research consortia;
 8-44 (5) facilitating training and education programs
 8-45 conducted jointly by sector members;

8-46 (6) promoting cooperative market development
 8-47 activities;

8-48 (7) analyzing the need for, feasibility of, and cost
 8-49 of establishing product certification and testing facilities and
 8-50 services; and

8-51 (8) providing for methods of electronic communication
 8-52 and information dissemination among sector members to facilitate
 8-53 network or industry cluster activity.

8-54 (f) The office shall, on a continuing basis as determined by
 8-55 the office, evaluate:

8-56 (1) the effectiveness of the services provided to
 8-57 industry clusters, using information gathered at regional and
 8-58 statewide levels; and

8-59 (2) the potential return to the state from devoting
 8-60 additional resources to the economic development of a targeted
 8-61 sector and devoting resources to additional targeted sectors.

8-62 (g) The office shall use information gathered in each region
 8-63 for which the office identifies industry clusters to:

- 8-64 (1) formulate strategies to promote the economic
 8-65 development of targeted sectors; and
- 8-66 (2) designate new targeted sectors.

8-67 SECTION 25. Section 481.043, Government Code, is amended to
 8-68 read as follows:

8-69 Sec. 481.043. GENERAL POWERS AND DUTIES RELATING TO

INTERNATIONAL TRADE. The office [~~department~~] shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) acquire, hold, invest, use, and dispose of the office's [~~department's~~] revenues, funds, and money received from any source under this subchapter and the proceedings authorizing the bonds issued under this subchapter, subject only to the provisions of the Texas Constitution, this subchapter, and any covenants relating to the office's [~~department's~~] bonds in classes of investments that the executive director [~~board~~] determines.

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

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

(b) Users participating in the programs established under this subchapter shall pay the costs of applying for, participating

10-1 in, and administering and servicing the program in amounts that the
 10-2 office [~~department~~] considers reasonable and necessary.

10-3 SECTION 30. Subdivision (2), Section 481.121, Government
 10-4 Code, is amended to read as follows:

10-5 (2) "Permit office [~~Office~~]" means the Texas Economic
 10-6 Development Office's [~~department's~~] business permit office.

10-7 SECTION 31. Section 481.122, Government Code, is amended to
 10-8 read as follows:

10-9 Sec. 481.122. CREATION. The business permit office is an
 10-10 office within the Texas Economic Development Office [~~department~~].

10-11 SECTION 32. Section 481.123, Government Code, is amended to
 10-12 read as follows:

10-13 Sec. 481.123. DUTIES. The permit office shall:

10-14 (1) provide comprehensive information on permits
 10-15 required for business enterprises in the state and make that
 10-16 information available to applicants and other persons;

10-17 (2) assist applicants in obtaining timely and
 10-18 efficient permit review and in resolving issues arising from the
 10-19 review;

10-20 (3) facilitate contacts between applicants and state
 10-21 agencies responsible for processing and reviewing permit
 10-22 applications;

10-23 (4) assist applicants in the resolution of outstanding
 10-24 issues identified by state agencies, including delays experienced
 10-25 in permit review;

10-26 (5) develop comprehensive application procedures to
 10-27 expedite the permit process;

10-28 (6) compile a comprehensive list of all permits
 10-29 required of a person desiring to establish, operate, or expand a
 10-30 business enterprise in the state;

10-31 (7) encourage and facilitate the participation of
 10-32 federal and local government agencies in permit coordination;

10-33 (8) make recommendations for eliminating,
 10-34 consolidating, simplifying, expediting, or otherwise improving
 10-35 permit procedures affecting business enterprises by requesting
 10-36 that the state auditor, with the advice and support of the permit
 10-37 office, initiate a business permit reengineering review process
 10-38 involving all state agencies;

10-39 (9) develop and implement an outreach program to
 10-40 publicize and make small business entrepreneurs and others aware of
 10-41 services provided by the permit office;

10-42 (10) adopt rules, procedures, instructions, and forms
 10-43 required to carry out the functions, powers, and duties of the
 10-44 permit office under this subchapter; and

10-45 (11) except as provided in Section 481.129, complete
 10-46 the implementation of the business permit review process on or
 10-47 before September 1, 1994, and provide all recommended statutory
 10-48 changes as needed to the legislature on or before January 1, 1995.

10-49 SECTION 33. Subsections (a), (b), (c), (d), (f), and (h),
 10-50 Section 481.124, Government Code, are amended to read as follows:

10-51 (a) The permit office shall develop and by rule implement a
 10-52 comprehensive application procedure to expedite the identification
 10-53 and processing of required permits. The permit office shall
 10-54 specify the permits to which the comprehensive application
 10-55 procedure applies. A comprehensive application must be made on a
 10-56 form prescribed by the permit office. The permit office shall
 10-57 consult with affected agencies in designing the form to ensure that
 10-58 the form provides the necessary information to allow agencies to
 10-59 identify which permits may be needed by the applicant. The form
 10-60 must be designed primarily for the convenience of an applicant who
 10-61 is required to obtain multiple permits and must provide for concise
 10-62 and specific information necessary to determine which permits are
 10-63 or may be required of the particular applicant.

10-64 (b) Use of the comprehensive application procedure by the
 10-65 applicant is optional. On request the permit office shall assist an
 10-66 applicant in preparing a comprehensive application, describe the
 10-67 procedures involved, and provide other appropriate information
 10-68 from the comprehensive permit information file.

10-69 (c) On receipt of a comprehensive application from an

11-1 applicant, the permit office shall immediately notify in writing
 11-2 each state agency having a possible interest in the proposed
 11-3 business undertaking, project, or activity with respect to permits
 11-4 that are or may be required.

11-5 (d) Not later than the 25th day after the date of receipt of
 11-6 the notice, the state agency shall specify to the permit office each
 11-7 permit under its jurisdiction that is or may be required for the
 11-8 business undertaking, project, or activity described in the
 11-9 comprehensive application and shall indicate each permit fee to be
 11-10 charged.

11-11 (f) The permit office shall promptly provide the applicant
 11-12 with application forms and related information for all permits
 11-13 specified by the interested state agencies and shall advise the
 11-14 applicant that the forms are to be completed and submitted to the
 11-15 appropriate state agencies.

11-16 (h) Each state agency having jurisdiction over a permit to
 11-17 which the comprehensive application procedure applies shall
 11-18 designate an officer or employee to act as permit liaison officer to
 11-19 cooperate with the permit office in carrying out this subchapter.

11-20 SECTION 34. Subsections (a), (b), (d), and (e), Section
 11-21 481.125, Government Code, are amended to read as follows:

11-22 (a) The permit office shall compile a comprehensive list of
 11-23 all state permits required of a person desiring to operate a
 11-24 business enterprise in the state.

11-25 (b) To the extent possible, the permit office shall organize
 11-26 the list according to the types of businesses affected and shall
 11-27 publish the list in a comprehensive permit handbook.

11-28 (d) The permit office shall periodically update the
 11-29 handbook.

11-30 (e) The permit office shall make the handbook available to
 11-31 persons interested in establishing a business enterprise, public
 11-32 libraries, educational institutions, and the state agencies listed
 11-33 in the handbook.

11-34 SECTION 35. Section 481.126, Government Code, is amended to
 11-35 read as follows:

11-36 Sec. 481.126. ASSISTANCE OF OTHER STATE AGENCIES. Each
 11-37 state agency, on request of the permit office, shall provide
 11-38 assistance, services, facilities, and data to enable the permit
 11-39 office to carry out its duties. An agency is not required to
 11-40 provide information made confidential by a constitution, statute,
 11-41 or judicial decision.

11-42 SECTION 36. Subsections (a), (c), and (d), Section 481.127,
 11-43 Government Code, are amended to read as follows:

11-44 (a) Each state agency required to review, approve, or grant
 11-45 permits for business undertakings, projects, or activities shall
 11-46 report to the permit office in a form prescribed by the permit
 11-47 office on each type of review, approval, or permit administered by
 11-48 the agency.

11-49 (c) The permit office shall prepare an information file on
 11-50 state agency permit requirements and shall develop methods for
 11-51 maintenance, revision, update, and ready access. The permit office
 11-52 shall provide comprehensive permit information based on that file.

11-53 (d) The permit office may prepare and distribute
 11-54 publications, guides, and other materials to serve the convenience
 11-55 of permit applicants and explain permit requirements affecting
 11-56 business, including requirements involving multiple permits or
 11-57 regulation by more than one state agency.

11-58 SECTION 37. Section 481.128, Government Code, is amended to
 11-59 read as follows:

11-60 Sec. 481.128. NO CHARGES FOR SERVICES. The permit office
 11-61 shall provide its services without charge.

11-62 SECTION 38. Section 481.129, Government Code, is amended to
 11-63 read as follows:

11-64 Sec. 481.129. ENVIRONMENTAL PERMITS. The permit office
 11-65 shall consult and cooperate with the Natural Resource Conservation
 11-66 Commission in conducting any studies on permits issued by the
 11-67 Natural Resource Conservation Commission. The Natural Resource
 11-68 Conservation Commission shall cooperate fully in the study and
 11-69 analysis of the procedures involving the issuance of permits by

12-1 that commission and shall, in any report issued, evaluate all
 12-2 alternatives for improving the process pursuant to the permit
 12-3 office's responsibilities under Section 481.123. The permit office
 12-4 and the Natural Resource Conservation Commission shall jointly
 12-5 submit any report required under Section 481.123.

12-6 SECTION 39. Subsections (a), (d), and (e), Section 481.167,
 12-7 Government Code, are amended to read as follows:

12-8 (a) The office [~~department~~] shall establish the Texas
 12-9 Business and Community Economic Development Clearinghouse to
 12-10 provide information and assistance to businesses and communities in
 12-11 the state through the use of a statewide toll-free telephone
 12-12 service.

12-13 (d) The office [~~department~~] shall obtain from other state
 12-14 agencies appropriate information needed by the office [~~department~~]
 12-15 to carry out its duties under this subchapter.

12-16 (e) The comptroller shall assist the office [~~department~~] in
 12-17 furthering the purposes of this subchapter by allowing the office
 12-18 [~~department~~] to use the field offices and personnel of the
 12-19 comptroller to disseminate brochures, documents, and other
 12-20 information useful to businesses in the state.

12-21 SECTION 40. Section 481.172, Government Code, as amended by
 12-22 Chapters 1041 and 1275, Acts of the 75th Legislature, Regular
 12-23 Session, 1997, is amended to read as follows:

12-24 Sec. 481.172. DUTIES. (a) The office [~~department~~] shall:

12-25 (1) as the sole state governmental entity responsible
 12-26 for out-of-state tourism marketing and promotion efforts, promote
 12-27 and advertise within the United States and in foreign countries, by
 12-28 radio, television, newspaper, the Internet, and other means
 12-29 considered appropriate, tourism in this state by non-Texans,
 12-30 including persons from foreign countries, and distribute
 12-31 promotional materials through appropriate distribution channels;

12-32 (2) represent the state in domestic and international
 12-33 travel trade shows, trade missions, and seminars;

12-34 (3) encourage travel by Texans to this state's scenic,
 12-35 historical, natural, agricultural, educational, recreational, and
 12-36 other attractions;

12-37 (4) conduct a public relations campaign to create a
 12-38 responsible and accurate national and international image of this
 12-39 state;

12-40 (5) use current market research to develop a tourism
 12-41 marketing plan to increase travel to the state by domestic and
 12-42 international visitors;

12-43 (6) develop methods to attract tourist attractions to
 12-44 the state;

12-45 (7) assist communities to develop tourist
 12-46 attractions; ~~and~~

12-47 (8) enter into a memorandum of understanding
 12-48 [~~cooperate fully~~] with the Parks and Wildlife Department, the Texas
 12-49 Department of Transportation, the Texas Historical Commission, and
 12-50 the Texas Commission on the Arts to direct the efforts of these
 12-51 agencies in all matters relating to [~~promotion of~~] tourism; and [-]

12-52 (9) [~~(8)~~] promote and encourage the horse racing and
 12-53 greyhound racing industry, if funds are appropriated for the
 12-54 promotion or encouragement.

12-55 (b) A memorandum of understanding entered into under
 12-56 Subsection (a)(8) shall provide that the office may:

12-57 (1) strategically direct and redirect each agency's
 12-58 tourism priorities and activities to:

12-59 (A) most effectively meet consumer demands and
 12-60 emerging travel trends, as established by the latest market
 12-61 research; and

12-62 (B) minimize duplication of efforts and realize
 12-63 cost savings through economies of scale;

12-64 (2) require each agency to submit to the office for
 12-65 advance approval:

12-66 (A) resources, activities, and materials related
 12-67 to the promotion of tourism proposed to be provided by the agency;

12-68 (B) a plan of action for the agency's proposed
 12-69 tourism activities, not later than June 1 of each year, that

13-1 includes:

13-2 (i) priorities identified by the agency;
 13-3 (ii) the agency's proposed budget for
 13-4 tourism activities; and

13-5 (iii) measurable goals and objectives of
 13-6 the agency related to the promotion of tourism; and

13-7 (C) any proposed marketing message, material,
 13-8 logo, slogan, or other communication to be used by the agency in its
 13-9 tourism-related efforts, to assist the office in coordinating
 13-10 tourism-related efforts conducted in this state by the agency and
 13-11 the office and conducted outside of this state by the office;

13-12 (3) direct the development of an annual strategic
 13-13 marketing plan to increase travel to this state, that:

13-14 (A) provides the most effective and efficient
 13-15 expenditure of state funds, for in-state marketing activities
 13-16 conducted by the agencies and the office and out-of-state marketing
 13-17 activities conducted by the office; and

13-18 (B) establishes goals, objectives, and
 13-19 performance measures, including the measurement of the return on
 13-20 the investment made by an agency or the office, for the
 13-21 tourism-related efforts of all state agencies; and

13-22 (4) direct the agencies to share costs related to
 13-23 administrative support for the state's tourism activities.

13-24 SECTION 41. Section 481.174, Government Code, is amended to
 13-25 read as follows:

13-26 Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS.

13-27 (a) The office [~~department~~] may sell advertisements in travel
 13-28 promotions in any medium.

13-29 (b) The executive director [~~governing board~~] shall adopt
 13-30 rules to implement the sale of advertisements under Subsection (a),
 13-31 including rules regulating:

13-32 (1) the cost of advertisements;

13-33 (2) the type of products or services that may be
 13-34 advertised;

13-35 (3) the size of advertisements; and

13-36 (4) refunds on advertisements that are not run.

13-37 (c) Proceeds from the sale of advertisements shall be
 13-38 deposited in the special account in the general revenue fund that
 13-39 may be used for advertising and marketing activities of the office
 13-40 [~~department~~] as provided by Section 156.251, Tax Code.

13-41 (d) The office is not required to follow the purchasing
 13-42 goals and procedures prescribed by Section 2161.181 and Subchapter
 13-43 F, Chapter 2161, for purchases made in connection with out-of-state
 13-44 tourism advertising, including advertising placement services.

13-45 SECTION 42. Subsections (a), (b), (d), (e), (f), and (h),
 13-46 Section 481.193, Government Code, are amended to read as follows:

13-47 (a) The office [~~department~~] shall establish a linked
 13-48 deposit program to encourage commercial lending for the development
 13-49 of:

13-50 (1) small businesses in enterprise zones;

13-51 (2) historically underutilized businesses;

13-52 (3) child-care services provided by and activities
 13-53 engaged in this state by nonprofit organizations; and

13-54 (4) quality, affordable child-care services in this
 13-55 state.

13-56 (b) The executive director [~~policy board~~] shall adopt rules
 13-57 for the loan portion of the linked deposit program.

13-58 (d) After reviewing an application and determining that the
 13-59 applicant is an eligible borrower and is creditworthy, the eligible
 13-60 lending institution shall send the application for a linked deposit
 13-61 loan to the office [~~department~~].

13-62 (e) The eligible lending institution shall certify the
 13-63 interest rate applicable to the specific eligible borrower and
 13-64 attach it to the application sent to the office [~~department~~].

13-65 (f) After reviewing each linked deposit loan application,
 13-66 the executive director [~~of the department~~] shall recommend to the
 13-67 comptroller the acceptance or rejection of the application.

13-68 (h) Before the placing of a linked deposit, the eligible
 13-69 lending institution and the state, represented by the comptroller

14-1 and the office [~~department~~], shall enter into a written deposit
 14-2 agreement containing the conditions on which the linked deposit is
 14-3 made. The deposit agreement must provide that:

14-4 (1) the lending institution notify the comptroller if
 14-5 the borrower to which the deposit is linked defaults on the loan;
 14-6 and

14-7 (2) in the event of a default the comptroller may
 14-8 withdraw the linked deposit.

14-9 SECTION 43. Section 481.194, Government Code, is amended to
 14-10 read as follows:

14-11 Sec. 481.194. COMPLIANCE. (a) On acceptance of its
 14-12 application to receive linked deposits, an eligible lending
 14-13 institution shall loan money to an eligible borrower in accordance
 14-14 with the deposit agreement and this subchapter. The eligible
 14-15 lending institution shall forward a compliance report to the office
 14-16 [~~department~~].

14-17 (b) The office [~~department~~] shall monitor compliance with
 14-18 this subchapter and inform the comptroller of noncompliance on the
 14-19 part of an eligible lending institution.

14-20 SECTION 44. Section 481.198, Government Code, is amended to
 14-21 read as follows:

14-22 Sec. 481.198. MARKETING. (a) The office [~~department~~]
 14-23 shall promote the linked deposit program established by this
 14-24 subchapter to eligible borrowers and financial institutions that
 14-25 make commercial loans and are depositories of state funds.

14-26 (b) Not later than January 1 of each odd-numbered year, the
 14-27 office [~~department~~] shall prepare and deliver to the governor,
 14-28 lieutenant governor, speaker of the house of representatives, and
 14-29 clerks of the standing committees of the senate and house of
 14-30 representatives with primary jurisdiction over commerce and
 14-31 economic development a report concerning the office's
 14-32 [~~department's~~] efforts in promoting the linked deposit program
 14-33 during the preceding two years.

14-34 SECTION 45. Section 481.211, Government Code, is amended to
 14-35 read as follows:

14-36 Sec. 481.211. POWERS AND DUTIES. The office [~~department~~]
 14-37 shall:

14-38 (1) compile and update demographic and economic
 14-39 information on the state;

14-40 (2) develop and update information products for local
 14-41 communities on community economic development issues and practices
 14-42 that encourage regional cooperation; and

14-43 (3) compile and disseminate information on economic
 14-44 and industrial development trends and issues, including NAFTA,
 14-45 emerging industries, and patterns of international trade and
 14-46 investment.

14-47 SECTION 46. Section 481.212, Government Code, is amended to
 14-48 read as follows:

14-49 Sec. 481.212. COMPILATION AND DISTRIBUTION OF DATA AND
 14-50 RESEARCH. (a) To serve as a one-stop center for business-related
 14-51 information, the office [~~department~~] shall obtain from other state
 14-52 agencies and organizations, including the comptroller and the Texas
 14-53 Workforce Commission, business-related statistics and data.

14-54 (b) To maximize the accessibility of business-related data,
 14-55 the office [~~department~~] shall create a web site to publish
 14-56 business-related information on the Internet. The web site must
 14-57 provide connections to other business-related web sites.

14-58 (c) The office [~~department~~] may charge a reasonable access
 14-59 fee in connection with this subchapter.

14-60 SECTION 47. Subdivision (9), Section 481.401, Government
 14-61 Code, is amended to read as follows:

14-62 (9) "Reserve account" means an account established in
 14-63 a participating financial institution on approval of the office
 14-64 [~~department~~] in which money is deposited to serve as a source of
 14-65 additional revenue to reimburse the financial institution for
 14-66 losses on loans enrolled in the program.

14-67 SECTION 48. Subsection (c), Section 481.402, Government
 14-68 Code, is amended to read as follows:

14-69 (c) Money in the fund may be appropriated only to the office

15-1 [~~department~~] for use in carrying out the purposes of this
15-2 subchapter.

15-3 SECTION 49. Section 481.404, Government Code, is amended to
15-4 read as follows:

15-5 Sec. 481.404. POWERS OF OFFICE [~~DEPARTMENT~~] IN
15-6 ADMINISTERING CAPITAL ACCESS FUND. In administering the fund, the
15-7 office [~~department~~] has the powers necessary to carry out the
15-8 purposes of this subchapter, including the power to:

15-9 (1) make, execute, and deliver contracts,
15-10 conveyances, and other instruments necessary to the exercise of its
15-11 powers;

15-12 (2) invest money at the office's [~~department's~~]
15-13 discretion in obligations determined proper by the office
15-14 [~~department~~], and select and use depositories for its money;

15-15 (3) employ personnel and counsel and pay the persons
15-16 from money in the fund legally available for that purpose; and

15-17 (4) impose and collect fees and charges in connection
15-18 with any transaction and provide for reasonable penalties for
15-19 delinquent payment of fees or charges.

15-20 SECTION 50. Subsections (a) through (d), Section 481.405,
15-21 Government Code, are amended to read as follows:

15-22 (a) The office [~~department~~] shall establish a capital
15-23 access program to assist a participating financial institution in
15-24 making loans to businesses and nonprofit organizations that face
15-25 barriers in accessing capital.

15-26 (b) The office [~~department~~] shall use money in the fund to
15-27 make a deposit in a participating financial institution's reserve
15-28 account in an amount specified by this subchapter to be a source of
15-29 money the institution may receive as reimbursement for losses
15-30 attributable to loans in the program.

15-31 (c) The office [~~department~~] shall determine the eligibility
15-32 of a financial institution to participate in the program and may set
15-33 a limit on the number of eligible financial institutions that may
15-34 participate in the program.

15-35 (d) To participate in the program, an eligible financial
15-36 institution must enter into a participation agreement with the
15-37 office [~~department~~] that sets out the terms and conditions under
15-38 which the office [~~department~~] will make contributions to the
15-39 institution's reserve account and specifies the criteria for a loan
15-40 to qualify as a capital access loan.

15-41 SECTION 51. Subsection (a), Section 481.406, Government
15-42 Code, is amended to read as follows:

15-43 (a) The executive director [~~policy board~~] shall adopt rules
15-44 relating to the implementation of the program and any other rules
15-45 necessary to accomplish the purposes of this subchapter. The rules
15-46 may:

15-47 (1) provide for criteria under which a certain line of
15-48 credit issued by an eligible financial institution to a small or
15-49 medium-sized business or nonprofit organization qualifies to
15-50 participate in the program; and

15-51 (2) authorize a consortium of financial institutions
15-52 to participate in the program subject to common underwriting
15-53 guidelines.

15-54 SECTION 52. Subsections (a) and (d), Section 481.407,
15-55 Government Code, are amended to read as follows:

15-56 (a) Except as otherwise provided by this subchapter, the
15-57 office [~~department~~] may not determine the recipient, amount, or
15-58 interest rate of a capital access loan or the fees or other
15-59 requirements related to the loan.

15-60 (d) A capital access loan may be sold on the secondary
15-61 market under conditions as may be determined by the office
15-62 [~~department~~].

15-63 SECTION 53. Subsections (a), (c), and (d), Section 481.408,
15-64 Government Code, are amended to read as follows:

15-65 (a) On approval by the office [~~department~~] and after
15-66 entering into a participation agreement with the office
15-67 [~~department~~], a participating financial institution making a
15-68 capital access loan shall establish a reserve account. The reserve
15-69 account shall be used by the institution only to cover any losses

16-1 arising from a default of a capital access loan made by the
 16-2 institution under this subchapter or as otherwise provided by this
 16-3 subchapter.

16-4 (c) For each capital access loan made by a financial
 16-5 institution, the institution shall certify to the office
 16-6 [~~department~~], within the period prescribed by the office
 16-7 [~~department~~], that the institution has made a capital access loan,
 16-8 the amount the institution has deposited in the reserve account,
 16-9 including the amount of fees received from the borrower, and, if
 16-10 applicable, that the borrower is located in or financing a project,
 16-11 activity, or enterprise in an area designated as an enterprise zone
 16-12 under Chapter 2303.

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

16-17 (1) an amount equal to the amount deposited by the
 16-18 institution for each loan if the institution:

16-19 (A) has assets of more than \$1 billion; or

16-20 (B) has previously enrolled loans in the program
 16-21 that in the aggregate are more than \$2 million;

16-22 (2) an amount equal to 150 percent of the total amount
 16-23 deposited under Subsection (b) for each loan if the institution is
 16-24 not described by Subdivision (1); or

16-25 (3) notwithstanding Subdivisions (1) and (2), an
 16-26 amount equal to 200 percent of the total amount deposited under
 16-27 Subsection (b) for each loan if:

16-28 (A) the borrower is located in or financing a
 16-29 project, activity, or enterprise in an area designated as an
 16-30 enterprise zone under Chapter 2303; or

16-31 (B) the borrower is a small or medium-size
 16-32 business or a nonprofit organization that operates or proposes to
 16-33 operate a day-care center or a group day-care home, as those terms
 16-34 are defined by Section 42.002, Human Resources Code.

16-35 SECTION 54. Section 481.409, Government Code, is amended to
 16-36 read as follows:

16-37 Sec. 481.409. LIMITATIONS ON STATE CONTRIBUTION TO RESERVE
 16-38 ACCOUNT. (a) The amount deposited by the office [~~department~~] into
 16-39 a participating financial institution's reserve account for any
 16-40 single loan recipient may not exceed \$150,000 during a three-year
 16-41 period.

16-42 (b) The maximum amount the office [~~department~~] may deposit
 16-43 into a reserve account for each capital access loan made under this
 16-44 subchapter is the lesser of \$35,000 or an amount equal to:

16-45 (1) eight percent of the loan amount if:

16-46 (A) the borrower is located in or financing a
 16-47 project, activity, or enterprise in an area designated as an
 16-48 enterprise zone under Chapter 2303; or

16-49 (B) the borrower is a small or medium-size
 16-50 business or a nonprofit organization that operates or proposes to
 16-51 operate a day-care center or a group day-care home, as those terms
 16-52 are defined by Section 42.002, Human Resources Code; or

16-53 (2) six percent of the loan amount for any other
 16-54 borrower.

16-55 SECTION 55. Subsections (b), (c), and (d), Section 481.410,
 16-56 Government Code, are amended to read as follows:

16-57 (b) The state is entitled to earn interest on the amount of
 16-58 contributions made by the office [~~department~~], borrower, and
 16-59 institution to a reserve account under this subchapter. The office
 16-60 [~~department~~] shall withdraw monthly or quarterly from a reserve
 16-61 account the amount of the interest earned by the state. The office
 16-62 [~~department~~] shall deposit the amount withdrawn under this
 16-63 subsection into the fund.

16-64 (c) If the amount in a reserve account exceeds an amount
 16-65 equal to 33 percent of the balance of the financial institution's
 16-66 outstanding capital access loans, the office [~~department~~] may
 16-67 withdraw the excess amount and deposit the amount in the fund. A
 16-68 withdrawal of money authorized under this subsection may not reduce
 16-69 an active reserve account to an amount that is less than \$200,000.

17-1 (d) The office [~~department~~] shall withdraw from the
 17-2 institution's reserve account the total amount in the account and
 17-3 any interest earned on the account and deposit the amount in the
 17-4 fund when:

17-5 (1) a financial institution is no longer eligible to
 17-6 participate in the program or a participation agreement entered
 17-7 into under this subchapter expires without renewal by the office
 17-8 [~~department~~] or institution;

17-9 (2) the financial institution has no outstanding
 17-10 capital access loans; and

17-11 (3) the financial institution has not made a capital
 17-12 access loan within the preceding 24 months.

17-13 SECTION 56. Section 481.411, Government Code, is amended to
 17-14 read as follows:

17-15 Sec. 481.411. ANNUAL REPORT. A participating financial
 17-16 institution shall submit an annual report to the office
 17-17 [~~department~~]. The report must:

17-18 (1) provide information regarding outstanding capital
 17-19 access loans, capital access loan losses, and any other information
 17-20 on capital access loans the office [~~department~~] considers
 17-21 appropriate;

17-22 (2) state the total amount of loans for which the
 17-23 office [~~department~~] has made a contribution from the fund under
 17-24 this subchapter;

17-25 (3) include a copy of the institution's most recent
 17-26 financial statement; and

17-27 (4) include information regarding the type and size of
 17-28 businesses and nonprofit organizations with capital access loans.

17-29 SECTION 57. Subsection (a), Section 481.412, Government
 17-30 Code, is amended to read as follows:

17-31 (a) The office [~~department~~] shall submit to the legislature
 17-32 an annual status report on the program's activities.

17-33 SECTION 58. Section 481.414, Government Code, is amended to
 17-34 read as follows:

17-35 Sec. 481.414. GIFTS AND GRANTS. The office [~~department~~]
 17-36 may accept gifts, grants, and donations from any source for the
 17-37 purposes of this subchapter.

17-38 SECTION 59. Subsections (b) and (d), Section 4, Development
 17-39 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil
 17-40 Statutes), are amended to read as follows:

17-41 (b) There is hereby created the Texas Small Business
 17-42 Industrial Development Corporation which shall act on behalf of the
 17-43 state to carry out the public purposes of this Act. The Texas Small
 17-44 Business Industrial Development Corporation shall be considered to
 17-45 be a corporation within the meaning of this Act, shall be organized
 17-46 and governed in accordance with the provisions of this Act, and
 17-47 shall have all of the powers, and shall be subject to all of the
 17-48 limitations, provided for corporations by this Act, except as
 17-49 otherwise provided by this section. For purposes of this Act, the
 17-50 state shall be considered to be the unit under whose auspices the
 17-51 Texas Small Business Industrial Development Corporation is created
 17-52 [~~and the department shall be considered to be the governing body~~].
 17-53 To the extent that the provisions of this section are inconsistent
 17-54 with other provisions of this Act, the provisions of this section
 17-55 shall control as to the existence, powers, limitations,
 17-56 organization, administration, operation, and affairs of the Texas
 17-57 Small Business Industrial Development Corporation.

17-58 (d) The governor shall appoint [~~members of the board of the~~
 17-59 ~~department shall serve ex officio as~~] the board of directors of the
 17-60 Texas Small Business Industrial Development Corporation. The
 17-61 governor or the governor's designee and the executive director of
 17-62 the Texas Economic Development Office serve as nonvoting ex officio
 17-63 members of the board.

17-64 SECTION 60. (a) The Texas Department of Economic
 17-65 Development is abolished and the offices of the members of the
 17-66 governing board of the department serving on the effective date of
 17-67 this Act are abolished.

17-68 (b) The validity of an action taken by the Texas Department
 17-69 of Economic Development or its governing board before it is

18-1 abolished under Subsection (a) of this section is not affected by
 18-2 the abolishment.

18-3 SECTION 61. On September 1, 2003:

18-4 (1) a rule, standard, or form adopted by the Texas
 18-5 Department of Economic Development or the department's governing
 18-6 board is a rule, standard, or form of the Texas Economic Development
 18-7 Office and remains in effect until changed by the executive
 18-8 director of the office;

18-9 (2) a reference in law to the Texas Department of
 18-10 Economic Development or its governing board means the Texas
 18-11 Economic Development Office;

18-12 (3) a proceeding involving the Texas Department of
 18-13 Economic Development is transferred without change in status to the
 18-14 Texas Economic Development Office, and the Texas Economic
 18-15 Development Office assumes, without a change in status, the
 18-16 position of the Texas Department of Economic Development in a
 18-17 proceeding to which the Texas Department of Economic Development is
 18-18 a party;

18-19 (4) all money, contracts, leases, rights, and
 18-20 obligations of the Texas Department of Economic Development are
 18-21 transferred to the Texas Economic Development Office;

18-22 (5) all property, including records, in the custody of
 18-23 the Texas Department of Economic Development becomes the property
 18-24 of the Texas Economic Development Office; and

18-25 (6) all funds appropriated by the legislature to the
 18-26 Texas Department of Economic Development are transferred to the
 18-27 Texas Economic Development Office.

18-28 SECTION 62. (a) The executive director of the Texas
 18-29 Department of Economic Development serving on the effective date of
 18-30 this Act does not automatically become the executive director of
 18-31 the Texas Economic Development Office. To become the executive
 18-32 director of the Texas Economic Development Office, a person must
 18-33 apply for the position and the person's employment in that capacity
 18-34 must be approved by the governor.

18-35 (b) An employee of the Texas Department of Economic
 18-36 Development employed on the effective date of this Act does not
 18-37 automatically become an employee of the Texas Economic Development
 18-38 Office. To become an employee of the Texas Economic Development
 18-39 Office, a person must apply for a position at the Texas Economic
 18-40 Development Office and the person's employment in that capacity
 18-41 must be approved by the governor or the executive director of the
 18-42 office.

18-43 SECTION 63. A function or activity performed by the Texas
 18-44 Department of Economic Development is transferred to the Texas
 18-45 Economic Development Office as provided by this Act.

18-46 SECTION 64. The Texas Department of Economic Development or
 18-47 the Texas Economic Development Office, as applicable, shall
 18-48 establish a transition plan for the transfer described in Section
 18-49 61 of this Act. The plan must include a reasonable timetable for
 18-50 the effective reconstruction of the department's mission,
 18-51 strategies, performance measures, functions, and staff, as they
 18-52 relate to key economic clusters in this state.

18-53 SECTION 65. (a) On September 1, 2003:

18-54 (1) the functions performed by the Texas Aerospace
 18-55 Commission are transferred to the aerospace office of the Texas
 18-56 Economic Development Office; and

18-57 (2) the executive director of the Texas Aerospace
 18-58 Commission becomes the director of the aerospace office of the
 18-59 Texas Economic Development Office.

18-60 (b) The governor shall determine the manner in which
 18-61 employees of the Texas Aerospace Commission, if any, are
 18-62 transferred to the aerospace office of the Texas Economic
 18-63 Development Office.

18-64 SECTION 66. The following laws are repealed:

- 18-65 (1) Chapter 146, Education Code;
- 18-66 (2) Sections 481.001(1), (3), and (4), 481.004,
- 18-67 481.0041, 481.0043, 481.0044, 481.005(b), 481.006, 481.0068,
- 18-68 481.007, 481.010(c), 481.0231, 481.028, 481.041, 481.045, 481.059,
- 18-69 481.071, 481.073(a) and (b), 481.077, 481.084, 481.087, 481.1665,

19-1 481.168, 481.171, 481.201, and 481.403, Government Code;
19-2 (3) Subchapters G and CC, Chapter 481, Government
19-3 Code;
19-4 (4) Chapters 482 and 484, Government Code; and
19-5 (5) Section 39, Development Corporation Act of 1979
19-6 (Article 5190.6, Vernon's Texas Civil Statutes).
19-7 SECTION 67. This Act takes effect September 1, 2003.

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