Economic Development in Texas

Programs and Incentives

Research Foundation

TTARA

400 West 15th Street, Suite 400
Austin, TX 78701
512/472-8838
512/472-2636 (fax)
www.ttara.org
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Introduction

Many factors affect the level of economic activity within a state. Some of these factors are outside the control of government, ranging from the weather and natural resources to the availability of labor and the proximity to other markets. At the same time, many factors are subject to state and local governmental policies and are widely acknowledged to have significant effects as well. Among these are the public services provided, the size and condition of the public infrastructure, and the policies regarding regulation, the legal system, and taxation.

In the broadest sense, governmental efforts to enhance economic development can be defined so as to encompass a very wide range of activities, the purpose of which is to provide the foundation for, or to support or augment, economic activity. Such an all-encompassing definition of economic development efforts would encompass, for example, the education system that prepares citizens to participate in the workforce, the construction and maintenance of the transportation system, and even such diverse endeavors as encouraging research consortiums at institutions of higher education or the promotion of tourism or home-produced goods and services.

In contrast, this study focuses more narrowly on those government programs that are intended to promote economic development directly by reducing the cost of opening or operating a business in order to attract, retain, or expand business activity, thereby resulting in increased economic activity, investment and employment.

The importance of any single factor to a particular business varies widely and depends on both the nature and purpose of its business activity. However, a public policy environment that supports an attractive economic infrastructure, and that does not unintentionally distort private economic decision-making, provides the essential underpinning for a state's economic vitality.

Because every state attempts to provide a broadly attractive environment for economic growth, discrete government programs aimed at fostering business activity can also play an important role in the growth and development of a particular state. Moreover, in an increasingly competitive environment for capital investment and job growth, targeted incentives have become increasingly important policy tools. They come in many forms and are frequently employed in tandem to achieve the desired results. They include grant programs; loans and loan guarantees or subsidies; development authorities; enterprise zones; job training; tax abatements, credits and exemptions; tax increment financing; and many others.

This is the first volume in what is planned as a two-part study of economic development incentives in Texas. This first part contains a discussion of governmental efforts to affect the growth of the private economy, and an annotated catalogue of the most significant state and local economic development initiatives available in Texas. The second part of this study will take a closer look at and analyze the performance of some of Texas' major programs and provide an assessment of how Texas' policies stack up against those of other major industrial states.

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Part 1: The Purpose of Economic Development Programs and Incentives

Economies are not static. They grow or contract as resources and markets are developed and investment capital shifts from place to place in search of better returns.

Every political jurisdiction has an interest in doing what it can to provide a solid foundation for economic growth to take place within its borders for the benefit of its citizens. Ideally, this growth not only generates wealth and jobs, but also provides the basis for the fiscal system that makes necessary public services affordable.

To some degree, the growth or contraction of regional economies will take place without much input from governmental policymakers as populations grow, natural resources are developed and institutions age. Growth, however, cannot be taken for granted. Incentives allow governments to target growth to communities of need; they allow a region to offset certain competitive disadvantages (such as high taxes on particular investments); and, they assist in attracting certain types of economic activity that may benefit job creation, economic reformation, and growth in state or local tax bases.

Economic development policy is essentially a matter of trying to influence the way in which an area grows as a result of commercial activity and trade. Each place is endowed with a specific set of resources and activities that make up its local economy. For it to grow, it must trade products and services with other areas so that economic resources become increasingly available to its citizens. "A critical question is by what means a competitive advantage is gained over time."[1]

Political jurisdictions compete vigorously with each other for this growth. This competition pits region against region, country against country, and state against state. One of the primary ways the competition between different jurisdictions plays out is in the economic development programs and incentives that they offer.

In a recent Federal Reserve Bulletin article, Dan Gorin describes the problem facing regional policy makers by saying, "Economic development incentives are intended to induce capital investment in a jurisdiction in which such investment might not otherwise take place."[2] However, as he also points out, "Economic development incentives—state and local government efforts to encourage economic development—are one of a limited numbers of tools local policymakers have for stimulating local economies."[3]

The task for policy makers is to find the right incentive, or package of incentives, to have the maximum impact on the economy. A recent report by the Texas State Comptroller makes this point very well:

> "While the choice of incentive to offer is strongly influenced by the community's goals, the fact remains that economic growth…is the intended consequence [of] granting a firm an incentive. As such, the most important factor in selecting an incentive to offer is determining which option will have the most significant impact on growth."[4]

Economic Development in Texas: Purpose of Programs and Incentives

No state's economy starts from a blank slate. States are endowed with differing resources—natural and human—and have differing cultures and institutional climates. Each state offers its own unique mix of assets and liabilities, and each offers its own unique set of inducements to attract capital and economic growth.

An economic development policy to help a state gain a competitive advantage over time must begin from a careful and realistic evaluation of the state's strengths and weaknesses, followed by the design and implementation of tools appropriate to maximizing its strengths and minimizing its weaknesses.

This report will not attempt to analyze Texas' standing in detail, because that subject has been studied by others. It is fair to generalize, however, that the state's primary resources have been listed as including:

- A large, growing and relatively young population;
- A tremendous and diverse natural resource base;
- Institutions that promote entrepreneurship and business development;
- An improving regulatory and judicial environment; and,
- Fiscal systems that have historically supported efficient public services and infrastructure.

It is also fair to say that there are several problem areas—or "sore thumbs"—that present impediments to growth. Among these are:

- A tax system that places heavy burdens on capital;
- An aging and increasingly strained transportation and energy infrastructure; and,
- A relatively large segment of our workforce with skills unmatched to the modern job market.

Examples of programs specifically addressing one of the state's "sore thumbs" are those that have been created to lessen the impact of high local property taxes. Since local property taxes make up a larger portion of state and local tax costs in Texas than in nearly any other state, a number of incentives have been created to lessen the impact of those taxes and to make the decision to invest in Texas less difficult.

The purpose of economic development programs in Texas, as it is in all other states, is to create an environment that provides the maximum opportunity for economic success. Policy tools to accomplish this generally fall into two broad categories: things that improve the human and physical attributes of the region in ways that provide an environment that is conducive to economic activity broadly—like educating its citizens to increase the value of the region's human resources, or developing and maintaining a transportation network; and things that are specifically undertaken to affect the choices made by economic decision makers. While both types of activity are important, this report is focused only on the latter: programs and incentives undertaken for the explicit purpose of influencing economic development.

Because Texas enjoys a large and diverse economy, its mixture of economic development programs and incentives is very diverse. Sometimes the goal of government incentives is to encourage job growth directly; sometimes the goal may also be to increase ancillary investment and activity as the original impact spreads through the economy and leads to further growth, jobs and income. Sometimes incentives are directed at reducing the cost of specific transactions, and by making them cheaper, increasing investment in or production of those things. Some incentives are even directed at encouraging businesses to do things that will generate additional revenue to government. This report attempts to catalogue the major incentives of all types that are available in Texas to reduce business costs.

A further important policy reason political jurisdictions attempt to influence economic growth is to insure that the economy is growing at a pace that can provide opportunities for an expanding population. But economic development policy is not just a question of how to create *new* jobs; it is also a question of how to *retain existing* jobs. Businesses must continually renew themselves to remain competitive. Unless the economic development policy of a state includes tools to both retain and create businesses, it may find itself in the position of having to create opportunities for new businesses to replace the older ones that have gone elsewhere. A vital and growing state will have policies that strengthen its existing economic base while simultaneously building on it.

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[1] Shalah M. Mostashari, "Expanding Variety of Goods Underscores Battle for Competitive Advantage," *Economic Letter: Insights from the Federal Reserve Bank of Dallas,* vol. 5, no. 15, December, 2010.

[2] Dan Gorin, "Economic Development Incentives: Research Approaches and Current Views," *Federal Reserve Bulletin,* vol. 94, 2008.

[3] *Ibid.*

[4] "An Analysis of Texas Economic Development Incentives", Susan Combs, Texas Comptroller of Public Accounts, 2010.

Part 2: How Should Incentives be Evaluated?

Economic development programs, like all other governmental programs, should be examined regularly to insure that they are operating as intended, efficiently administered, accomplishing the goals for which they were created, and are consistent with current policy objectives.

This would seem to be a rather straightforward task. However, the different ways that economic development incentives are provided make it an extremely complex one. This complexity also makes it difficult to compare economic development programs and set priorities among them.

The temptation, therefore, is to try to reduce all comparisons to only one—or a few—metrics, often called a "cost/benefit" calculation. Unfortunately, the wide variety of incentives offered does not lend itself to an accurate calculation of either the "cost" or the "benefit" part of the equation, much less to the accurate calculation of a single measure that provides valid information about the whole range of economic development programs.

The "cost" of an incentive may be relatively simple to identify when dealing with a direct grant, or the provision of a specific service, but is much less certain when the incentive takes the form of easier access to financing, or taxes not collected. In part the difficulty results from the uncertainty over whether an activity would have even taken place without an incentive, and in part the difficulty results from the fact that many incentives involve events that take place over varying lengths of time.

"Benefits" are no easier to determine with great precision. Since most incentives are designed to affect the decisions of specific businesses, it is important to realize—and account for—the impact that the actions of those businesses have on other businesses. For example, the ancillary impact that is created when a major manufacturer locates in an area, constructs facilities, hires workers, pays salaries, and makes purchases from vendors, may be greater than the initial direct impact, and these impacts are likely to vary over time. Unless the measurement of "benefits" used in a "cost/benefit" calculation accounts for the peripheral effects, it will systematically underestimate the value of economic development activity.

Despite the fact that the systematic measurement of "costs" and "benefits" is so difficult, measures are sometimes created that appear easier to calculate and then are used to compare programs. One of the most popular, and often least helpful, is to calculate a measure called "cost-per-job" and rank programs according to it—high-to-low, or low-to-high—depending on the purpose of the comparison. Usually, such a ranking is used to either promote a favored incentive, or attack a disfavored one.

There are several problems with this approach.

The first is that it assumes that all economic development programs have job creation as their purpose. This ignores very real differences in programs and in the ways that they are intended to influence private development decisions. For example, programs that provide low or reduced cost financing to companies trying to build markets for new products (such as grants or capital infusions from the Emerging Technology Fund or CAPCO's) would be better evaluated by some measure of the growth in those markets. Programs designed to encourage greater investment (such as tax abatements) or consumption (exemptions) by lowering the effective cost of investment or consumption would be better evaluated by changes in those things. One of the most prominent economic development tools is Tax Increment Financing. In this program, public infrastructure is used to encourage real estate development that is largely commercial and residential. Other than the construction jobs involved in creating the public infrastructure, there is no direct jobs impact from these important economic development programs, nor in fact, is there a particular business that is the recipient of the incentive.

A second problem with the simple "cost-per-job" approach is the difficulty in distinguishing between the type or quality of the jobs being created, or in the different capital/labor mixes in various industries. The amount of investment capital required in some industries is far greater than in others, and differences in the amount of human capital between industries are also great. Comparing "cost-per-job" without factoring in the differences between types of jobs being counted will lead to very misleading results.

It is also necessary to recognize that the jobs associated with a particular project include the jobs involved to create the facilities used by the businesses receiving an incentive—temporary, but still beneficial—and the jobs related to the operations of the business—both direct jobs and the ancillary jobs associated with purchases by the business and its workers. Any calculation of "cost-per-job" must account for, and identify, the jobs included before it can reasonably be used to compare programs.

Neither does a simple "cost-per-job" approach lend itself to comparing "new jobs" versus "retained jobs" and the investment to support them. Many of the state's economic development programs are available to both "outsiders" making new investments in Texas and to Texas businesses. The state wants to encourage both. Unless care is taken to treat "retained" workers the same as "new" workers, it will always appear to be more costly to encourage Texas businesses to upgrade and expand.

Another problem with using a single metric, whether the "cost-per-job" or any other measure, is that economic development tends to involve packages of different incentives, all of which are important to the final decision by a business. It is common for an incentive package to include things that are designed to help with financing, to lower capital costs through abatements, exemptions or deferrals, and to provide training for workers. It is frequently the case that different pieces of an incentive package would rank very differently on one or another metric. To say that part of the package should be eliminated because it ranks poorly on some arbitrarily chosen metric could easily result in the elimination of one of the basic building blocks of the package and leave only the parts that were marginal to the deal.

All this argues for a more sophisticated approach to evaluating economic development incentives. Because of the different ways that incentives influence decision making, any evaluation of the various economic development programs offered in Texas should recognize that different metrics will be appropriate for different programs and, in the end, there will be no single incentive or program that will serve all purposes.

Nonetheless, programs should be evaluated. This evaluation may include both quantitative and qualitative elements. There are several dimensions on which the evaluation should take place.

First, there needs to be a careful consideration and understanding of the desired outcome expected as a result of the incentive. The outcome may be increased or retained employment, investment, production, worker skill levels and earnings, business formations, or a combination of a number of these. Without understanding the basic rationale for a particular incentive, a successful program can be found wanting because it doesn't do something it wasn't designed to do in the first place. Incentives should only be compared to other incentives that are designed to produce similar outcomes.

The state's incentive for the production of natural gas from high cost wells, for instance, is not primarily designed to increase the number of jobs in Texas, but rather to lead to more production by lowering the cost of producing natural gas from those wells. Still, the incentive does have a substantial jobs impact resulting from the activities that are ancillary to natural gas production, i.e., geophysical exploration, drilling and well servicing, gas distribution, etc. Some of the benefit from this incentive is enjoyed directly by the state in terms of increased severance taxes, but much of the benefit is felt elsewhere. Local governments see growth in their tax bases—property and sales—as taxable purchases are made and as mineral reserves grow in value. Clearly, companies that produce high cost gas see a benefit as the costs of their production is lower than it would have been without the special treatment, and as more gas "prospects" become economically viable to produce. Consequently, an incentive like this should be evaluated primarily on whether it has resulted in greater production of natural gas, and only secondarily on its indirect effects.

Second, economic development programs are designed to produce results over different lengths of time. It is important to evaluate programs over the appropriate time horizon. For instance, many economic development programs encourage activities that will be long lasting and may require significant "start-up" time before the goals are reached. Tax abatements, for instance, involve investments that will remain on tax rolls long after the agreements expire. Other programs, like the event funds, relate to things that happen during specific periods of time but have few long-term effects. Evaluating an economic development program in the wrong time frame will always lead to very misleading results.

Third, some economic development programs are designed to produce specific outcomes (often called "direct effects"), while others are designed to create economic activity beyond the initial investment, job creation, or start-up ("indirect effects"). An example of the first type of program is the Moving Image Industry Incentive Program where grants are provided to businesses that produce moving features, television programs, commercials and video games in Texas. Such programs can be evaluated directly to see whether they are producing the desired outcome.

Other programs are designed to encourage activities that will generate related ancillary activities. For example, Chapter 313 Tax Limitation Agreements provide temporary reductions in tax liabilities in return for major capital investments. These programs encourage the sort of businesses that attract other businesses such as the ones that supply parts to large manufacturing facilities or that service renewable energy producers. The evaluation of these "seed crystal" programs is incomplete unless it accounts for the additional economic activity that it causes to occur.

The tool most often used to evaluate the indirect impact of economic activity is called a "multiplier." Multipliers are applied to the direct outcomes measured—jobs, investment, income, etc.—to estimate the additional activity created as the direct spending and income flows out into the rest of the economy. Measurement of the "indirect" impact of economic development programs is by its nature both more difficult and less precise than measuring the direct impacts. It is necessary nonetheless, because these indirect effects provide much of the rationale for governmental actions to encourage economic development in the first place.

Clearly, any evaluation of economic development programs must include a consideration of their cost. In some cases, this is relatively simple. The cost of a grant is the grant amount, for instance. The cost of many other programs is more complicated to determine. Some programs, for example, involve direct payments of money from the government to a business. Others, like tax exemptions or abatements, involve the government receiving less money from the business benefitting from the incentive by delaying or reducing payments that it would otherwise be obligated to make to the government. In economic terms, these are referred to as "opportunity costs forgone" meaning that the government gave up the "opportunity" to collect a tax or fee. In the first case, money actually leaves the government's treasury. In the second, the government doesn't spend money directly, it gives up the "opportunity" to collect money from a business that did whatever it was the government was encouraging it to do.

For many, a threshold issue is what is referred to as the "But For" question. That is, whether the activity being encouraged would have happened anyway, or whether it would not have happened "but for" the incentive. If the economic development would have happened anyway, the cost of the program is simply whatever money goes out or does not come in. If the activity would not have taken place "but for" the incentive, the cost is less sure. It is not necessarily zero because many incentives—but not all—also may include governmental expenditures for infrastructure development, workforce training, or other direct or indirect outlays. In these cases there is a direct "cost" even if the activity would not have happened "but for" the incentive. However, many incentives involve only a partial reduction in taxes or fees paid by the business, and therefore, result in payments to the government that would not have occurred otherwise. In these cases, if the activity would not have taken place "but for" the incentive, the net effect on the government is positive, or the "cost" is negative.

A further complication in the calculation of costs arises when the government uses incentives to promote social goals. If an incentive is used to promote a social goal, e.g., generate more renewable energy or decrease unemployment payments, a portion of the cost should properly be attributed to meeting the social goal. That is, incentives that are simply to promote economic development should be evaluated differently than those that are provided to promote the development of industries or activities that serve a broader purpose. Unfortunately, it is seldom the case that the value of achieving the social goal is calculated as a part of the economic development outcome of an incentive.

A final question relating to evaluating the cost of economic development incentives is whether they are supposed to "pay for themselves." There is almost never a direct connection between the additional revenue that government receives from a business that gets an incentive and the incentive itself—nor is there any reason to expect there to be one.

In most cases, economic development incentives are designed to produce returns that are seen by both the government and private sectors of the economy. A significant portion of the expected benefit of many incentives is in the increased incomes of the owners and employees of the business. Those increased incomes may lead to increased tax collections, but generally that is not the primary goal of the incentive. People don't spend all of their income on things that are covered by transactions taxes—sales, fuels, etc.—and unless a person is subject to a direct tax on income, there is usually very little direct relationship between incentives that are designed to promote private income growth and the tax return to government that results from it. In this limited sense, incentives for economic development are similar to other programs that a government uses to improve the lives of its citizens and increase their income and earning capacities.

Some incentives are designed to produce additional tax revenue, however. The incentives given to promoters of certain sporting events are paid from taxes collected from people who attend those events. The promoters of certain major events—Formula One and the Super Bowl, for instance—are eligible for reimbursements from sales, hotel and alcoholic beverage taxes related to activities directly and indirectly associated with the event. In a sense, the event fund incentives can be viewed as comparable to others where the government becomes an equity partner in a business. With the event funds, the government's return on the investment comes in the form of higher tax collections generated by the event. By returning a portion of the tax proceeds to the promoter, the government is acknowledging that jobs, income and other associated activity generated in the private sector are a part of the rationale for the program.

Some incentives are designed to increase the volume of an activity that the government wants to encourage—the high cost gas incentive, for example. The expected payoff for these types of incentives should be reflected in growth in the amount of the incented activity taking place. Recent studies indicate that natural gas drilling and production have increased since the creation of the high cost gas exemption, which would follow if the incentive was doing what it was designed to do.[5] The increased production and well servicing activities associated with the high cost wells generate additional state taxes, and the increased mineral value generates additional local property taxes, but it is the activity itself, not the additional taxes, that the incentive is designed to produce.

The economic literature is filled with scholarly articles attempting to give precision to estimates of the costs and benefits of different types of economic development programs.[6] It is safe to say that there is no complete agreement as to the exact way program success or failure should be judged. While it can seem that the literature could provide a rationale for promoting or opposing nearly any particular program, two points of consensus have emerged:

1. State and local incentives can have an influence on private decisions about where economic activity will take place; and,

2. A proper evaluation of any economic development program requires consideration of both its direct and ancillary impacts.

Even though calculating the benefits and costs of economic development programs is difficult and complex, it should be done on a regular basis. In addition, it must be done with care and must avoid the urge to look for simple answers to complex questions.

A final consideration in evaluating economic development programs and incentives is that no government (Texas included) operates in a vacuum. Every state and every local government competes with every other one for the economic growth that will provide jobs and incomes for their citizens. A recent study by Peter Fisher provides evidence that the competition between states and local governments for economic activity is growing stiffer. In 1990, the average package of economic development incentives offered in the 20 largest manufacturing states reduced a recipient business's average effective state and local tax rate by 10 percent. Only 8 years later, in 1998, the average economic development package reduced a business's effective tax burden by 30 percent.[7] Given Timothy Bartik's finding that a 10 percent reduction in taxes would raise overall employment, investment, or new business formations by between 1 and 6 percent,[8] it is easy to see why policy makers have increased their focus on development incentives.

This robust competition is ever changing and must be continually examined as it evolves. Unless all jurisdictions simultaneously declare a halt to offering inducements, no jurisdiction can fail to be aware of what its competitors are doing. This doesn't mean that every state has to offer every inducement that every other state does, because all states have unique tax systems, natural and human resource bases, and social and economic infrastructures, but every state must examine the steps necessary to keep up with the competition.

A side effect of the increased competition among states, however, is that as states expand their economic development arsenals, the differences between what states offer become narrower. Since the competition between states is unlikely to end, a periodic consideration of what competitor states are doing must be a part of any evaluation of a state's economic development programs.

In summary, a careful evaluation of all of a state's economic development tools should be conducted periodically. Such an evaluation should include both quantitative and qualitative features. Given the diversity of programs, it is likely that several different measures will be necessary to provide an accurate reflection of a program's effectiveness. Any quantitative measures used must be carefully chosen to appropriately consider the specific intent of the program so that an accurate picture of its performance can be made and so appropriate comparisons between programs are not misleading. Qualitative aspects of program evaluation should include judgments about whether the program is competitive with other jurisdictions and whether it is appropriately reflective of governmental priorities.

5 Billy Hamilton, "The Texas High-Cost Gas Program: Benefits to the State Economy", A paper prepared for the Texas Oil & Gas Association, 2010; Legislative Budget Office, "Overview of Natural Gas Tax Structures", An unpublished paper prepared for the Texas Legislative Budget Board, 2010.

6 See: Michael J. Wasylenko, "Taxation and Economic Development: The State of the Economic Literature," *New England Economic Review*, March/April 1997.

7 Peter Fisher, "The Fiscal Consequences of Competition for Capital", A paper prepared for the conference "Reining in the Competition for Capital", Humphrey Institute of Public Affairs, University of Minnesota, February, 2004.

8 Timothy J. Bartik, "The Effects of State and Local Taxes on Economic Development: A Review of Recent Research," *Economic Development Quarterly*, vol. 26, 1992.

Part 3: The Taxonomy of Economic Development Incentives

There are a very large number of ways that economic development programs and incentives have been classified. Generally, the method of classification is determined by the purpose of the study being conducted.

One way to look at economic development programs and incentives is to concentrate on the direction that funds flow from one party to the other. This approach generally divides incentives into two categories:

a. Incentives where the business holds on to its own money—either temporarily or permanently—by not paying taxes on some exempt item or by paying less than they would have without the incentive.

b. Incentives where the government uses its resources to provide something of value to the business—either by making a grant or providing a service.

The flow of funds distinction is primarily important in understanding the "costs" of different programs because of its identification of the difference between "actual" costs (money actually going out of the government's treasury) as opposed to "opportunity" costs (money the government gave up the opportunity to collect). It is more appropriately used in evaluating programs rather than cataloging them, and therefore, will be considered further in the next volume of this study.

Another approach separates incentive programs by focusing on the methodology used for providing them. For instance, in a paper on tax and spending incentives, Fisher and Peters[9] identify five types of economic development incentives, moving from the most specific to the most general:

a. One-time deals negotiated with individual firms.

b. Grants and loans provided under programs that receive annual state appropriations.

c. Programs establishing parameters and limits but allowing some degree of local government discretion.

d. Incentives that function as entitlements, whereby a firm receives the benefit automatically, provided that its investment is in an eligible sector and the size of the investment or number of jobs created exceeds some threshold.

e. Code features that apply to all firms, but that benefit some more than others and are often advertised by economic development agencies as reasons to locate in a state.

Gorin adds a sixth category: "Changes to state statutes that have the effect of opening markets to firms in particular industries…."[10] Examples of this might include expedited permitting processes, "Renewable Portfolio Standards," or special apportionment formulas for specific industries.

Fisher and Peters's method of categorizing incentives is useful to demonstrate the broad range of ways that governments attempt to influence economic development. We have chosen to use a modified version of this approach to catalogue the Texas incentives described in this report, and will divide incentives into four categories: Tax Incentives, Grant Programs, Financing Tools, and the Direct Provision of Services. Not included in the following materials are those programs that create an overall environment conducive to economic development, but are not specific in their application.

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[9] Peter S. Fisher and Alan H. Peters (1997), "Tax and Spending Incentives and Enterprise Zones," *New England Economic Review March-April, 1997, pp. 109-130,* www.bos.frb.org/economic/neer/neer1997/neer297f.pdf

[10] Dan Gorin, "Economic Development Incentives: Research Approaches and Current Views," *Federal Reserve Bulletin*, October 2008.

Part 4: Incentives Offered in Texas

The incentives below are grouped into four major headings:

1. Tax Incentives
2. Grant Programs
3. Financing Tools
4. Direct Provision of Services.

The 66 programs for which detailed information is given are among the major ways in which the State of Texas attempts to influence private economic decisions by reducing business costs in order to encourage economic growth in the state. This is not an exhaustive list. Many of the other features of our tax system, and many other activities of government, could be included but they fall outside our limited definition of economic development incentives. For instance, we have purposely excluded the category of state programs that are intended to create a better environment in which the economy can function, as well as programs that create infrastructure that will be appealing to businesses in general. Each of the incentives listed herein is designed primarily to affect specific decisions of specific businesses.

Section 1: Tax Incentives

These are special treatments within the tax system that are used to lower the cost to a business of making investments or certain purchases in the state. Some of these are broad entitlements under which any business making the kind of investments or purchases being encouraged gets the benefit. Others require application and approval, and the agency or government has some discretion whether to grant the incentive. In general, tax incentives reduce or delay payments from a business to government and do not require the direct outlay of funds by the government.

- County Assistance Districts
- Defense Economic Readjustment Zone Program
- Defense Economic Readjustment Zone Refunds
- Development-Related State Tax Exemptions
  - Franchise Tax
    - Clean Energy Project Credit
  - Natural Gas Production Tax
    - High-Cost Gas
    - Low Producing Wells
    - Orphaned Wells
    - Previously Flared or Released Gas
    - Previously Inactive Wells
  - Oil Production Tax
    - Enhanced Efficiency Equipment
    - Enhanced Recovery Projects
    - Low Producing Wells
    - Orphaned Wells
    - Previously Inactive Wells
  - Sales Tax
    - Agricultural Items
    - Aircraft
    - Carbon Dioxide Sequestration
    - Cooperative Research and Development Ventures
    - Film and Recording Production Equipment
    - Gas and Electricity
    - Intercorporate Services
    - Media Production Locations
    - Property Used in Manufacturing
    - Ships and Ship Equipment
    - Train Rolling Stock, Fuel and Supplies
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- Economic Development Sales Tax
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- Other Local Tax-Related Development Programs
    - Improvement Districts
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    - Neighborhood Empowerment Zones
    - Tourism Promotion
- Reinvestment Zones
    - Tax Abatements
    - Texas Economic Development Act Value Limitations
    - Tax Increment Financing

County Assistance Districts

Summary: With voter approval, a county commissioners court may create a district for specified purposes, including economic development, and may levy a sales tax dedicated to fund its operations.

Legal Authority*:* Local Government Code, Chapter 387

Administering Authority: County Commissioners Court

Eligibility: All counties are authorized to create an assistance district and to approve the levy of a dedicated sales tax within its boundaries for authorized purposes. The district may include any part of the county in which the total of all local sales tax rates is less than two percent and the proposed additional tax will not cause the total rate to exceed the statewide two-percent cap.

Application/Approval Process: The county commissioners court orders an approval election to be held within the proposed district's boundaries as defined in the order. The ballot also must include approval of the proposed tax at a specified rate. If the proposed district would include any territory in a city, notice of intent must be sent to the city council which may decline to be included. Any excluded territory may later be added to the district by an election called by the county with the consent of the city. The county commissioners court serves as the district's governing body.

Authorized Tax Use: The following functions may be performed by the district:

- construction, maintenance, or improvement of roads or highways, libraries, museums, and parks or other recreational facilities;
- provision of law enforcement or detention services, and services that promote public health and welfare, including firefighting and prevention services; and
- promotion of economic development and tourism.

Among the district's enumerated general powers is the specific authority to acquire, sell, lease, convey, or otherwise dispose of property or an interest in property under terms determined by the district and to contract with a public or private person to perform any authorized act. Other than these broad grants of authority, there are no other statutory delineations of a district's operation.

Defense Economic Readjustment Zone Program

Summary: This program, which is similar to the Enterprise Zone Program, authorizes the use of state and local government incentives to foster business expansion and job creation in cities and counties that are adversely affected by the actual or proposed closure or significant reduction in the operations of federal defense facilities. Benefits that may be provided include exemption or suspension of compliance with government regulations, project financing, reduced fees or utility rates and tax incentives.

Legal Authority: Government Code, Chapter 2310
Tax Code §151.4291

Administrative Rule: 34 Texas Administrative Code §3.329

Administering Authority: Local Governments, Governor's Office, Texas Economic Development Bank (program oversight), Comptroller of Public Accounts (tax refunds)

Eligibility: A readjustment zone must be located in an "adversely affected defense-dependent community," be comprised of an area not larger than twenty square miles with at least fifty percent of it located in a defense facility, and may be included in an enterprise zone. A city or county is an "adversely affected defense-dependent community" if it is expected to experience a loss of one percent of its civilian jobs or of defense worker jobs amounting to 2,500 or more in an urbanized area or 1,000 or more in an area that is not urbanized.

Application/Approval Process: After a public hearing on the matter, the governing body of a city, county or both may nominate territory for designation as a readjustment zone and submit a designation application that details proposed incentives and operations to the Texas Economic Development Bank ("the Bank"). An application may be denied only if the Bank determines that the area does not meet eligibility requirements. Designation as a readjustment zone also constitutes designation of the area as a reinvestment zone for tax abatement or tax increment financing purposes.

Reporting: The zone's governing body must submit an annual operations report to the Bank that includes a list of incentives and their use, the number of businesses assisted, a summary of all industrial revenue bonds, and a description of all revitalization efforts. The Bank in turn issues an annual report that evaluates program effectiveness, describes the use of incentives and suggests needed legislation.

Defense Economic Readjustment Zone Refunds

Summary: Businesses designated as defense readjustment projects may receive a partial refund of state sales taxes dependent upon the number of new permanent or retained jobs in the zone. A readjustment project is entitled to a refund of a portion of sales taxes paid on purchases of machinery and equipment, building materials, construction labor, and electricity and natural gas. The amount of the refund is limited to $2,500 for each new permanent or retained job and may not exceed $250,000 a year. Receipts from services performed in the zone are excluded from the determination of business done in the state for purposes of calculating the franchise tax liability of a business designated as a readjustment project.

***Legal Authority**:* Government Code §§2310.404-406
Tax Code §151.4291

***Administrative Rule**:* 34 Texas Administrative Code §3.329

***Administering Authority**:* Local Governments, Governor's Office, Texas Economic Development Bank, Comptroller of Public Accounts

***Eligibility**:* A "qualified" business is one that has been certified by the Economic Development Bank to:

1. Be engaged in or be substantially committed to be engaged in an active business in the zone, and
2. If new jobs are created, have at least 25 percent of its new employees be residents of the governing jurisdiction, economically disadvantaged or dislocated defense workers.

An economically disadvantaged employee is one that: was unemployed for at least three months, receiving public assistance, met the federal definition of low-income or disabled, an imprisoned or paroled offender, or is eligible for federal low or moderate income housing assistance.

Application/Approval Process: A qualified business may request that the Zone's governing body apply to the Bank for designation of the business as a defense readjustment project. If the governing body approves the request, it submits an application to the Bank. The application must contain an economic analysis of the plans of the business, including employment and investment, and describe local revitalization efforts and incentives in detail.

If the application is approved, sales tax refund claims are submitted to the Comptroller.

Also, a city or county governing body may agree in writing to refund its local sales taxes paid by a qualified business or employee or for a partial or total refund of taxes paid by a person making a taxable purchase, lease or rental for development or revitalization in the zone. Local fees and taxes, other than sales and property taxes, imposed on a qualified business or employee may be reduced or eliminated.

Reporting: The Comptroller is required to annually report the amount of tax refunds to the Bank and to certify to the Legislative Budget Board the level of qualified employment.

Development-related State Tax Exemptions

Various features of the state tax system reduce business operating costs but are designed primarily to define a particular tax base rather than spur economic development. An example of this sort of feature is the "sales for resale" exemption from the sales tax. Its purpose is to reduce pyramiding in a tax that is designed to fall primarily on the final purchaser. The exemptions and credits that follow are provisions enacted to make specific exceptions to the tax base to which they apply so as to encourage more of the activity covered.

Franchise Tax

Clean Energy Project Credit
Beginning September 1, 2013, an entity designated in a certificate of compliance for a clean energy project may receive a tax credit equal to ten percent of the project's total capital cost or $100 million whichever is less. The amount of the credit that may be taken each year is based on the taxable margin resulting from the sale of power and any products produced by electric generation and may not exceed the total amount of tax due. To be eligible for the credit, the project must: be implemented in connection with a new facility, be issued a certificate of compliance from the Railroad Commission, have completed construction, have a fully operational associated electric generating facility, be verified by the Bureau of Economic Geology at the University of Texas at Austin as sequestering at least seventy percent of the carbon dioxide resulting from the generation of electricity, and have an interconnection agreement with the Electric Reliability Council of Texas.

Legal Authority: Natural Resources Code §§120.001 and 120.004
Government Code §490.352

Natural Gas Production Tax

After filing the appropriate paperwork establishing eligibility, the following credits are taken at the time of filing regular natural gas tax returns.

High-Cost Gas
Natural gas extracted from wells certified as high-cost wells by the Railroad Commission is taxed at a reduced rate for the first ten years of production or until the cumulative value of the tax reduction equals fifty percent of the well's drilling and completion costs, whichever happens first. High-cost gas is defined by reference to the type of geologic formation or the method used to produce the gas. After Commission certification that the well qualifies, the well operator applies to the Comptroller for the applicable rate reduction.

The amount of tax rate reduction is based on a comparison of the certified well's drilling and completion costs with the median of such costs as determined by the Comptroller from data reported on applications received during the previous year. The reduced rate is applied to the first 120 months of production up to a maximum amount of one-half of the well's completion costs.

Legal Authority: Tax Code §201.057

Administrative Rule: 16 Texas Administrative Code §3.101
34 Texas Administrative Code §3.21

Low Producing Wells

A tax credit is triggered for the production from a low producing gas well when the taxable price of gas drops below certain levels. A qualifying well is one with average daily production of less than ninety thousand cubic feet (Mcf) during a three-month period as reported to the Railroad Commission on monthly well production reports. When the Comptroller's monthly certification of the average taxable price of gas, adjusted to 2005 dollars, during the previous three months is between \$3 and \$3.50 per Mcf and an exemption application is filed, production from the qualifying well is entitled to a twenty-five percent tax credit. A fifty percent credit applies when the certified average price per Mcf is \$2.50 to \$3 and a full credit when the price is below \$2.50.

Legal Authority: Tax Code §201.059

Administrative Rule: 34 Texas Administrative Code §3.23

Orphaned Wells

The production of natural gas from a well certified by the Railroad Commission as not having any reported production or other regulated activity for the preceding twelve months is exempt from taxation. After obtaining certification of the well from the Commission, an application for the exemption must be submitted to the Comptroller. Production is exempt as long as the first producer from the orphaned well continues to operate it.

Legal Authority: Tax Code §§201.053, 201.058(a), and 202.060

Previously Flared or Released Gas

Gas that is produced and marketed from an oil well is exempt if the gas from that well had been flared or released into the air for at least the prior twelve months as certified by the Railroad Commission. An application for the exemption must be filed with the Comptroller.

Legal Authority: Tax Code §201.058(b)

Administrative Rule: 16 Texas Administrative Code §3.103

Previously Inactive Wells

Gas produced from wells certified by the Railroad Commission as not having produced oil or natural gas in more than one month during the preceding two years qualifies for a 10 year exemption. Applications for a certification could not be filed after August 31, 2009 and the Commission could not make a new certification after February 28, 2010. After obtaining certification of the well from the Commission, an application for the exemption must be submitted to the Comptroller.

Legal Authority: Tax Code §§201.053, 201.058(a), and 202.056

Administrative Rule: 16 Texas Administrative Code §3.83

Oil Production Tax

After filing the appropriate paperwork establishing eligibility, the following credits are taken at the time of filing regular oil tax returns.

Enhanced Efficiency Equipment
A tax credit equal to ten percent of the cost of enhanced efficiency equipment used to produce oil from a marginal well may be obtained. Enhanced efficiency equipment must be approved by an accredited petroleum engineering program at a higher educational institution in the state to reduce the energy used to produce oil by more than ten percent per barrel. A marginal well is one that on average produces ten barrels or less a day during a month. An application for the exemption must be submitted to the Comptroller.

Legal Authority: Tax Code §202.061

Administrative Rule: 34 Texas Administrative Code §3.40

Enhanced Recovery Project
Oil produced from a Railroad Commission-designated new or expanded enhanced recovery project is taxed at 2.3 percent, which is one-half of the normal rate. An additional fifty percent rate reduction (to 1.15 percent) applies for a period of thirty years if the Commission certifies that anthropogenic carbon dioxide is used in the enhanced recovery project.

Legal Authority: Tax Code §§202.052, 202.054 and 202.0545

Administrative Rule: 34 Texas Administrative Code §3.37
16 Texas Administrative Code §3.50

Low Producing Leases
Similar to the tax credit for a low producing natural gas well, a tax credit is available for production from a low producing oil lease when the taxable price of oil drops below certain levels. A qualifying lease is one with production during a ninety-day period of less than fifteen barrels a day or five barrels of recoverable oil per barrel of produced water. When the Comptroller's monthly certification of the average taxable price of oil, adjusted to 2005 dollars, during the previous three months is between $25 and $30 per barrel, and an application is filed, production from the lease during the month is entitled to a twenty-five percent tax credit. A fifty percent credit applies when the certified average price per barrel is $22 to $25 and a full credit when the price is below $22.

Legal Authority: Tax Code §202.058

Administrative Rule: 34 Texas Administrative Code §3.39

Orphaned Wells
The production of oil from a well certified by the Railroad Commission as not having any reported production or other regulated activity for the preceding twelve months is exempt from taxation. After obtaining certification of the well from the Commission, an application for the exemption must be submitted to the Comptroller. Production is exempt as long as the first producer from the orphaned well continues to operate it.

Legal Authority: Tax Code §202.060

Previously Inactive Wells
Oil produced from wells certified by the Railroad Commission as not having produced oil or natural gas in more than one month during the preceding two years qualifies for a 10-year exemption. Applications for certification could not be filed after August 31, 2009 and the Commission could not make a new certification after February 28, 2010. A similar exemption for production from three-year inactive wells expired in 1996. After obtaining certification of the well from the Commission, an application for the exemption must be submitted to the Comptroller.

Legal Authority: Tax Code §202.056

Administrative Rule: 16 Texas Administrative Code §3.83

Sales Tax

A purchaser of items that will be used for an exempt purpose presents to the seller an exemption certificate stating the reason for claiming the exemption. The purchaser's records of exempt transactions must be available for examination during a sales tax audit by the Comptroller. To receive a tax refund or credit, taxes due are paid in full when due and a refund application for the exempt amount is filed with the Comptroller.

Agricultural Items
Purchases of a long list of items used in agricultural operations are exempt from sales taxes in the same way as most intermediate goods used by other producers of tangible personal property. Among them are various work animals, animals that ordinarily constitute food, feed, seed, fertilizers, and other chemicals. Also exempt is machinery and equipment used on a farm or ranch or in the processing, packing or marketing of the producer's agricultural products or the control of pollution caused thereby. An exemption applies to sales of bins used for transporting fruits or vegetables from the field to be processed, packaged or marketed. Poultry cages are similarly exempted. Component parts of an underground irrigation system and ice used by commercial fishing boats are exempt as well.

Legal Authority: Tax Code §§151.316 and 151.342

Administrative Rule: 34 Texas Administrative Code §3.296

Aircraft
Purchases of aircraft, including helicopters and flight simulators, are exempt when sold:

- To a certificated or licensed carrier,
- To a person for providing federally approved flight instruction,
- To a foreign government, or
- To a person for use and registration outside the state before any instate use other than flight training and transportation out of the state.

Also exempted are component parts and machinery, equipment, tools, and supplies used to repair or maintain the aircraft of a certificated or licensed carrier.

***Legal Authority**:* Tax Code §151.328

***Administrative Rules**:* 34 Texas Administrative Code §§3.297 and 3.300

Carbon Dioxide Sequestration
An exemption is available for items used in connection with a clean energy or enhanced clean energy project to inject carbon dioxide into a geologic formation. Exemption is extended to components essential to capture, prepare for transportation, transport or inject the gas. The sequestration must be part of an enhanced oil recovery project that qualifies for a reduced oil production tax rate.

Legal Authority: Natural Resources Code, §120.001
Health & Safety Code, §382.003
Tax Code, §151.334

Administrative Rule: 34 Texas Administrative Code §3.326

Cooperative Research and Development Ventures
Items created, developed or modified by certain federally defined joint research and development ventures are exempt from tax when sold to a participating entity. Also exempt are purchases by certain joint ventures of items with a useful life exceeding six months.

Legal Authority: Tax Code §151.348

Film and Recording Production Equipment
Purchases of property that will become an ingredient or component part of a motion picture or an audio or video recording or broadcast are exempt. Also exempted are purchases of items necessary and essential to the production of a motion picture, audio or video recording, or a broadcast.

Legal Authority: Tax Code §151.3185

Gas and Electricity

Purchases of natural gas and electricity are exempt when sold for residential use and for certain business purposes, including:

- Powering exempt manufacturing equipment,
- Producing audio or video recordings or broadcasts,
- Lighting, cooling or heating a manufacturing area,
- Exploring for, producing or transporting a material extracted from the earth,
- Agricultural uses, including irrigation and dairy and poultry operations,
- Electrical processes such as electroplating and electrolysis,
- Off-wing overhaul or repair of jet turbine engines of a licensed carrier,
- The provision, under federal contract, of certain defense-related electronics and data processing,
- Use by an electric utility engaged in the purchase of electricity for resale, and
- Timber operations, including irrigation.

Legal Authority: Tax Code §151.317

Administrative Rule: 34 Texas Administrative Code §3.295

Intercorporate Services

Otherwise taxable service transactions between entities of an affiliated group, at least one of which must be a corporation, are exempt if their income is reported on a single consolidated federal tax return for the year in which the transactions occurred.

Legal Authority: Tax Code §151.346

Administrative Rules: 34 Texas Administrative Code §3.331

Media Production Locations

Items sold, leased or rented to construct, maintain, expand, improve, equip or renovate media production location facilities are exempt if the sale or use takes place in a Media Production Development Zone approved by the Governor's Music, Film, Television and Multimedia Office. If requested by a city or county, the Office may recognize a media production zone if it meets certain designated criteria, including being located in a metropolitan statistical area with a central city of over 250,000 population. The Comptroller, based on a submitted economic impact analysis, must certify that there will be a positive impact on state revenue. There may be no more than ten zones at any given time and no more than five in a region as defined by the Office. Each zone may contain a maximum of three media production locations. A zone designation lasts for five years and the production location sales tax exemption expires after two years

Legal Authority: Government Code §§485A.051- 485A.252
Tax Code §151.3415

Property Used in Manufacturing
A manufacturer of tangible personal property is entitled to purchase the following tax free:

- Items that will become an ingredient or component part of a manufactured product,
- Essential items used or consumed in the production process that bring about a chemical or physical change,
- Services performed on the product before distribution for sale to make it more marketable,
- A long list of specific types of production equipment,
- Items essential to a pollution control process,
- Chemicals, lubricants, gasses or liquids essential to the operation of exempt equipment,
- Gases used to prevent contamination or hazardous conditions,
- Items necessary for a quality control process,
- Essential safety apparel and work clothing,
- Items needed to comply with public health regulations, and
- Property to reduce water use and wastewater, reuse and recycle wastewater and treat wastewater from another industrial or municipal source.

Also separately exempted are purchases of: machinery and equipment, replacement parts and certain other items by a person overhauling or repairing jet turbine aircraft engines; cleanrooms and equipment for semiconductor fabrication or pharmaceutical biotechnology; and machinery, equipment and certain other items used for printing or imprinting property for sale or for publishing newspapers distributed free to the public.

Certain items are specifically excluded from the manufacturing exemption, including: intraplant transportation equipment, items rented or leased for less than a year, office supplies, hand tools, maintenance equipment and supplies, machinery and equipment used to maintain or store products, and certain property used to transmit or distribute electricity.

***Legal Authority**:* Tax Code §151.318

***Administrative Rules**:* 34 Texas Administrative Code §§3.300 and 3.314

Ships and Ship Equipment
This exemption extends to:

- Materials, machinery and equipment that become component parts of a vessel used for commercial purposes, including pleasure fishing, if the vessel's displacement is eight tons or more,
- A vessel of eight tons or more displacement used for commercial purposes when sold by its builder,
- Materials and labor used to repair or renovate a commercial vessel of eight tons or more displacement,

- Materials and supplies purchased by the owner of a vessel operating exclusively in foreign or interstate coastal commerce when loaded on the vessel for use in its maintenance and operation or as a component part, and
- Materials and supplies purchased by a person providing stevedoring services for a vessel operating exclusively in foreign or interstate coastal commerce.

Legal Authority: Tax Code §151.329

Administrative Rules: 34 Texas Administrative Code §§3.297 and 3.314

Train Rolling Stock, Fuel and Supplies
Purchases of rolling stock, locomotives, and fuel and supplies essential to train operations are exempt. Also exempt are purchases of electricity, natural gas and other fuels used in the repair and maintenance of rolling stock.

Legal Authority: Tax Code §151.331

Administrative Rule: 34 Texas Administrative Code §3.297

Timber Production Items
The exempted items associated with timber production are:

- Seedlings,
- Equipment, machinery, fertilizers, insecticides and certain other chemicals used exclusively in producing timber for sale,
- Machinery and equipment, including required pollution control equipment, used in the processing, packing or marketing of the producer's timber products, and
- Component parts of an underground irrigation system.

Legal Authority: Tax Code §151.3162

Administrative Rule: 34 Texas Administrative Code §3.367

Economic Development Sales Tax

Summary: Since 1989 cities have been permitted to adopt a sales and use tax to support economic development. Two types of taxes are authorized, Type A and Type B (formerly known as 4A and 4B), which primarily differ in the size of the city authorized to adopt the tax and the permitted uses of tax receipts. The tax may be levied in increments of one-eighth percent up to one-half percent total, provided that the tax rate adopted may not cause the combined local sales tax rate of all local jurisdictions to exceed two percent.

Legal Authority: Local Government Code, Chapters 501-505

Administering Authority: Local taxing units, Comptroller of Public Accounts

Eligibility:
Type A – Cities in counties with less than 500,000 population and some cities in certain other counties – adopted in 117 cities.
Type B – All cities, including those eligible to adopt a Type A tax – 330 cities have adopted a Type B tax.
An additional 132 have adopted both Type A and Type B.

Application/Approval Process: A non-profit development corporation must be established by the city to administer the tax receipts. The process of establishing a corporation may be initiated by the city or by application from a group of at least three citizens. To create a corporation, the city council must approve its articles of incorporation which must state the purposes of the corporation and include other required items. Separate corporations must be established to administer a Type A and Type B tax and the board of directors for each differ in required size and qualifications. Board members serve at the pleasure of the city's governing body which must approve all corporation projects and expenditures.

Type B corporations generally are required to publish notice and hold a public hearing before any project may be undertaken and the public then has sixty days to petition for an election on the question of the project's approval. An exception applies for approving Type A projects by Type B corporations in cities under 20,000 population. Type A corporations must hold a public hearing only when considering approval of a Type B project.

The tax must be approved in an election. The city council may call the election or it may be initiated by a petition signed by at least twenty percent of the voters in the most recent city regular election. Similarly, any subsequent increase, decrease or repeal of the tax rate must be approved by election. The tax may be approved for either an unlimited or a specified period of time, including for the duration of a specific project.

Authorized Tax Use:
Type A – This tax is intended primarily to support manufacturing and industrial development. Tax proceeds may be used to acquire land, buildings, equipment, facilities, targeted infrastructure and improvements related to projects such as manufacturing and industrial facilities, recycling facilities, distribution centers, small warehouses, military facilities, corporate

headquarters and job training facilities used by higher educational facilities. The tax also may fund general aviation business service airports, port-related facilities, certain airport facilities and certain infrastructure improvements that benefit new or expanded business enterprises.

Type B – Tax proceeds may be used to fund all authorized Type A projects. In addition, they can be used to finance a variety of community development projects such as: sports facilities, park and event facilities, tourist and entertainment facilities, affordable housing, and for related parking facilities. Funds may also be spent for transportation, water and sewer, commercial, restaurant and concession, and public safety facilities.

A development corporation may lease and sell, by installment contract or otherwise, all or any part of a project and may donate property to an institution of higher education. A corporation may loan funds to a project user to provide financing for all or part of its cost. Except for closed or realigned military facilities, a corporation may not own or operate a project as a business. A corporation may issue bonds to defray project costs secured by a pledge of tax receipts and project lease and sale proceeds.

The Texas Leverage Fund Program administered by the Governor's Economic Development and Tourism Division (See 10 Texas Administrative Code §§181.1-181.10) provides a financing source for cities to leverage their sales tax receipts if they meet certain eligibility requirements, including a limit on the total amount of corporation obligations. The Fund provides low-interest loans, backed by a pledge of tax receipts, to provide funding for designated projects. The maximum amount of loans outstanding may not exceed a total of $25 million.

Reporting: Each development corporation must submit an annual report to the Comptroller detailing its operations, revenues, assets and expenditures. Based on these reports, the Comptroller submits a report on the use of the tax to the Legislature in advance of each regular session.

Enterprise Zone Program

Summary: The Texas Enterprise Zone Program provides for the use of state and local government incentives to induce job creation and private investment in distressed areas by easing governmental regulations and providing economic development program benefits and tax incentives.

Legal Authority: Government Code, Chapter 2303

Administrative Rules: 10 Texas Administrative Code §§176.1-176.5

Administering Authority: Local Governments, Governor's Office, Texas Economic Development Bank

Eligibility: An area is automatically eligible for designation as an enterprise zone if it is:

1. A census block in which at least twenty percent of its residents have incomes below the federal poverty level;
2. Designated by the federal government as a renewable community, empowerment zone, or enterprise community; or
3. Located in a distressed county, defined as one that has a poverty rate above 15.4 percent, an adult population which includes 25.4 percent that do not have a high school diploma or equivalency certificate, and an unemployment rate above 4.9 percent for the preceding five years.

Application/Approval Process: The governing body of the city or county with jurisdiction over the area makes application to the Texas Economic Development Bank for designation and is the zone's governing body. Once a zone has been established, a "qualified" business may request that the governing body apply to the Bank for designation of a project or activity as an enterprise project if it is for relocation of a business from out-of-state or for expansion, renovation or new construction at an existing business. If the governing body approves the business's request, it submits an application to the Bank for the project designation.

A qualified business is defined as one that is: Engaged in, or substantially committed to be engaged in, business in the zone and will have at least 25 percent of its new employees be residents of the zone or economically disadvantaged individuals.

A business that is not in an area of the state that qualifies as an enterprise zone may request that the governing body of the city or county apply to the Bank for designation of a project as an enterprise project if at least 35 percent of its new employees will be residents of any enterprise zone or economically disadvantaged individuals.

An economically disadvantaged employee is one that: has been unemployed for at least three months, receiving public assistance, federally defined as low-income or disabled, an imprisoned or paroled offender, or is eligible for federal low or moderate income housing assistance.

The application for enterprise project designation must include the order or ordinance approving the submission and contain prescribed information describing the nominated project or activity and identifying all associated local tax, financial and program incentives and benefits. A public hearing must be held before adoption of the ordinance or order. The application also must contain an economic analysis that includes a long list of items describing new or retained jobs, the amount of investment, completion schedules, and all local revitalization and development efforts made by the nominating governing body, the qualified business and all other affected entities. Applications are accepted quarterly on the first working day of March, June, September and December.

The Bank may not designate more than 105 enterprise projects during any state fiscal biennium and no more than six may be designated for each nominating governing body. A qualified business may obtain multiple concurrent enterprise project designations. Designations are made on a competitive basis using a weighted scale in which 40 percent of the evaluation depends on the economic distress in the area, 25 percent on the local development and revitalization efforts, and 35 percent on the level of cooperation and support committed to the revitalization goals of all zones within the governmental entity and the type and wage level of the jobs to be created or retained. The Bank approves designations for a period of one to five years.

Designation as an enterprise zone also constitutes designation of the area as a reinvestment zone for tax abatement, school value limitations or tax increment financing purposes. However, local designation of an area for one of those purposes does not automatically qualify the area as an enterprise zone.

Reporting: By October 1 of every year the governing body must submit a report to the Bank summarizing all local incentives, the total number of businesses benefiting and the industrial bonds used to finance enterprise projects. The Comptroller reports to the Bank on the total number of jobs created and retained in the State and the amount of sales tax refunds made.

Enterprise Zone Refunds

Summary: Businesses designated as enterprise projects may receive a partial refund of state sales taxes dependent upon the level of capital investment and jobs created or retained.

***Legal Authority**:* Government Code §§2303.407, 4071 & 504
Tax Code §151.429

***Administrative Rule**:* 34 Texas Administrative Code §3.329

***Administering Authority**:* Governor's Office, Texas Economic Development Bank (program oversight), Comptroller of Public Accounts (state sales tax refunds), Local Governments (local tax refunds)

***Eligibility**:* A maximum number of new permanent or retained jobs for which a state sales tax refund may be obtained is allocated by the Economic Development Bank to an enterprise project based on the amount of capital investment made as shown below.

Capital Investment	Maximum Number of Jobs	Maximum Refund Per Job	Maximum Total Refund
$40,000 to $399,999	10	$2,500	$25,000
$400,000 to $999,999	25	$2,500	$62,000
$1,000,000 t0 $4,999,999	125	$2,500	$312,500
$5,000,000 to $149,999,999	500	$2,500	$1,250,000
Double Jumbo Project $150,000,000 to $249,999,999	500	$5,000	$2,500,000
Triple Jumbo Project $250,000,000 or more	500	$7,500	$3,750,000

The maximum refund that can be made in any state fiscal year is limited to $750,000 for a triple jumbo project, $500,000 for a double jumbo project and $250,000 for all other enterprise projects.

A qualified business that has been operating in the jurisdiction of the governing body for three consecutive years and is retaining ten or more jobs also may receive a onetime refund of sales taxes paid on purchases of machinery and equipment for use in the zone. The amount of the refund is limited to $500 for each retained employee up to a maximum total refund of $5,000.

In addition, a city or county governing body may agree in writing to directly refund the local sales taxes paid by a qualified business or employee or for a partial or total refund of taxes paid by a person making a taxable purchase, lease or rental for development or revitalization in the zone. Local fees and taxes, other than sales and property taxes, imposed on a qualified business or employee may be reduced or eliminated.

Application/Authorization: All state sales tax refund claims are submitted to the Comptroller. Any refunds of local sales taxes are handled according to the agreement between the business and the local jurisdiction.

Reporting: The Comptroller reports to the Bank on the total number of jobs created and retained and on the amount of sales tax refunds made.

Freeport and Goods-in-Transit Exemptions

Summary: Local taxing units may grant a property tax exemption for certain tangible personal property that resides in the jurisdiction only temporarily during its transport. Two types of exemption are available. The primary difference between the two is that while goods-in-transit must be located at a location that is not controlled by the owner, freeport goods may be exempt when they are in the hands of the owner.

***Legal Authority**:* Texas Constitution, Article VIII, §§1-j and 1-n
Tax Code §§11.251, 11.253 and 11.437

Administering Authority: Local taxing units and central appraisal districts

Freeport Goods

Tangible personal property and ores – excluding oil, natural gas and other petroleum products – are exempt from property taxes if:

1. Acquired in or imported into the state to be forwarded outside the state;
2. Detained for assembling, storing, manufacturing, processing or fabricating by the person who acquired or imported the property; and
3. Transported outside the state within 175 days of acquisition or importation.

The owner of the property on January 1 does not have to be the owner of the property when it is transported outside the state.

The operator of a warehouse used primarily for storing cotton for transportation outside the state may apply for an exemption of cotton that qualifies as freeport goods on behalf of all the different owners storing cotton in the warehouse. Such cotton is presumed to have been transported outside the state within 175 days.

The governing body of a county, city, school district or junior college district was given an option to exempt freeport goods at the time the constitutional provision passed in 1989, or to continue to tax them. If they later decide to exempt freeport goods, they may not take further action to void that decision.

Goods-in-Transit

Tangible personal property and ores – excluding oil, natural gas and other petroleum products – are exempt from property taxes if:

1. Acquired in or imported into the state to be forwarded to a location within or outside the state;
2. Detained for assembling, storing, manufacturing, processing or fabricating at a location that is not owned or under the control of the tangible personal property's owner; and
3. Transported to another location in the state or outside the state within 270 days of acquisition or importation.

The owner of the property on January 1 does not have to be the owner of the property when it is transported to another location inside or outside the state.

The governing body of a county, city, school district or junior college district may elect to tax goods-in-transit but must hold a public hearing on the issue before taking such action. If they later decide to exempt goods-in-transit, they may not take further action to void that decision.

Application/Approval Process: The property owner must submit an application for exemption with the central appraisal district by April 30 of each year. By written notice the chief appraiser may require the property owner to provide copies of property records and the exemption is forfeited for the year if the information is not provided within 31 days. A cotton warehouse operator submits a one-time application that is valid until the warehouse changes ownership or the cotton no longer qualifies, but the chief appraiser may by written notice require a new exemption form to be filed in any year.

Other Local Tax-Related Development Programs

Cities and counties are authorized to employ a number of strategies primarily directed at enhancing infrastructure and other public improvements in a designated area to attract and expand economic activity. Local tax incentives may be offered as part of these development programs.

Improvement Districts

***Legal Authority**:* Local Government Code, Chapter 372

Purpose/Activities: Authorized projects include: landscaping; signs, lighting and fountains; sidewalks and roadways or their rights-of-way; pedestrian malls; art installations; libraries; off-street parking; mass transportation facilities; water, wastewater or drainage facilities; parks; supplemental services related to advertising and promotion; health and sanitation, public safety and security; recreation and cultural enhancement; affordable housing; and business recruitment. Real property may be acquired in connection with any authorized project.

Creation: A city or county governing body may create an improvement district only after receiving a petition requesting its establishment signed by a required number of property owners – those owning properties comprising more than fifty percent of the appraised value and more than fifty percent of the number of properties in the area. After a feasibility report is prepared and a public hearing is held, the governing body may establish a district.

Revenues: The cost of improvements is recouped by the levy of assessments apportioned among properties using a number of authorized methods to reflect their share of the benefit from the project. In addition, a tax may be levied annually to create a special fund to defray improvement costs and general obligation and revenue bonds may be issued.

Municipal Development Corporations

***Legal Authority**:* Local Government Code, Chapter 379A

Purpose/Activities: To facilitate development of a qualified and competent workforce, these corporations have the authority to develop and operate programs for job training, early childhood development, after-school programs, scholarships to public and private higher educational and technical institutions, promotion of literacy and any other undertaking to develop a skilled workforce.

Creation: A city's governing body may create a development corporation, appoints its board of directors, and approves its budget.

Revenues: With voter approval, a sales tax to support corporation activities may be imposed citywide at a rate of up to one-half percent, provided that the rate may not cause the combined rates of all local sales taxes to exceed two percent.

Reporting: The corporation must submit an annual report describing its operations to the Comptroller. In turn, the Comptroller reports to the Legislature on the use of the sales taxes prior to each regular session.

Municipal Development Districts

Legal Authority*:* Local Government Code, Chapter 377

Purpose/Activities: Authorized development projects include all those for which a Type B economic development sales tax may be levied and a convention center and related facilities, including hotels, auditoriums and parking.

Creation: An election must be held to approve a district's creation. The city governing body appoints a board of directors to govern the district.

Revenues: With voter approval, a sales tax may be imposed in the district at a rate of up to one-half percent, provided that the rate may not cause the combined rates of all local sales taxes to exceed two percent. Bonds also may be issued to provide project funding.

NAFTA Impact Zones

Legal Authority*:* Local Government Code, Chapter 379

Purpose/Activities: North American Free Trade Agreement (NAFTA) zones may be created to promote business opportunities for local businesses, economic development or employment opportunities for residents. Zones also must satisfy the requirements for a reinvestment zone for tax abatement purposes.

Creation: Zones are created by a resolution adopted by a city's governing body. Multiple zones may be created and an area may be located in more than one zone.

Financial Incentives*:* A city may waive or adopt fees related to building construction and may enter into agreements for up to ten years duration to abate its property taxes or to refund its sales taxes on purchases made in the zone. Businesses that receive tax benefits must make a good faith effort to hire individuals receiving federal NAFTA transitional adjustment assistance and annually report the number of such hires.

Neighborhood Empowerment Zones

Legal Authority*:* Local Government Code, Chapter 378

Purpose/Activities: These zones may be created to: promote the creation or rehabilitation of affordable housing; enhance the quality of social services, education or public safety; or increase economic development. Zones also must satisfy the requirements for a reinvestment zone for tax abatement purposes.

Creation: Zones are created by a resolution adopted by a city's governing body. Multiple zones may be created and an area may be located in more than one zone.

Financial Incentives*:* A city may waive or adopt fees related to building construction and may enter into agreements for up to ten years duration to abate property taxes or to refund sales taxes on purchases made in the zone.

Tourism Promotion

Legal Authority*:* Tax Code, Chapters 351 (cities) and 352 (counties)

Hotel Occupancy Tax: Cities and certain specified counties may adopt a hotel occupancy tax to fund the promotion of tourism. Most cities may not levy a tax rate in excess of seven percent but a limited number may levy a rate of up to nine percent depending on the provisions of authorizing legislation. With limited exceptions for particular counties, county tax rates also may not exceed seven percent.

Use of Revenue:
City tax revenue may be spent for:

- Acquisition of sites for, and the construction, maintenance, repair and operation of, convention and visitor information centers,
- Facilities, personnel and materials for registering convention attendees,
- Advertising and promotional programs to attract tourists,
- Encouragement, promotion, improvement and application of the arts,
- Historical restoration and preservation and the promotion of the visitation of historic sites,
- Expenses directly related to sporting events in counties with a population of a million or more,
- The enhancement and upgrading of publicly owned sports facilities or fields in certain cities,
- Constructing, maintaining, equipping and operating a coliseum or multiuse facility in certain cities,
- Signage providing directions to popular sites and attractions,
- Construction of a recreational venue in the immediate vicinity of area hotels in certain cities.

County tax revenue generally may be spent for similar purposes. However, the list of approved expenditures varies depending on factors such as population and location. Depending on the size of the city or county, certain limitations apply to the percentage of tax revenues that may be spent for a particular purpose. For example, cities of 200,000 population or more must spend at least fifty percent of the revenue on advertising and promotions to attract tourists. Tax revenues also may be pledged to provide bond financing.

Tax Administration: Hotel operators collect the taxes and remit them directly to the city or county and may be permitted to retain up to one percent as reimbursement for collection expenses.

Reinvestment Zones

Summary: Reinvestment Zones are the basic building block on which several economic development programs are constructed. A primary reason for this is to allow for special treatment of certain property under the property tax, because taxation of property at any amount less than its market value must be constitutionally authorized. The authority to reduce property taxes to encourage economic development and to dedicate the revenue derived from increases in property values is found in Art. VIII, Sec. 1-g, of the Texas Constitution. This provision allows the Legislature to permit local taxing units to grant exemptions or other relief "on property located in a reinvestment zone." It also provides authorization for legislation to permit cities to use debt financing for "the development or redevelopment of an unproductive, underdeveloped or blighted area" and to pledge the tax revenues of the city and other taxing jurisdictions resulting from property value increases in the area. Designation as a reinvestment zone also opens up the possibility of assigning incremental growth in local sales taxes to certain economic development purposes.

There are no constitutional requirements or limitations on an area that may be designated as a reinvestment zone, but some programs have statutory requirements that must be met for a zone to qualify. Designation of an area as an enterprise zone under the Enterprise Zone Program automatically qualifies the area as a reinvestment zone as well.

Tax abatements, Texas Economic Development Act value limitations, and tax increment financing all require that a business be located in a reinvestment zone created by official action of the appropriate local jurisdiction. Each has separate requirements, both for the area that may be included and the businesses that qualify for benefits provided.

Tax Abatements

Local governments, except school districts, may enter into agreements with property owners to exempt from property taxation all or part of the value of real or personal property located in a reinvestment zone for a period of up to ten years on condition that the property owner makes specific improvements or repairs to the property. Prior to entering into a tax abatement agreement, the local jurisdiction must have established the zone and adopted guidelines and criteria to establish the conditions that must be met in order to be eligible for an abatement. The guidelines, however, do not limit the governing body's discretion to choose whether or not to enter into any particular abatement agreement. Each jurisdiction must adopt its own guidelines, and not all jurisdictions with authority to tax particular property must have the same guidelines.

The area included in a reinvestment zone for tax abatement purposes must:

1. Negatively affect sound community growth, retard housing development, or constitute an economic or social liability and be a menace to public health, safety, morals or welfare because of the presence of certain substandard conditions, including substandard structures, defective streets or sidewalks, faulty lot conditions, unsanitary or unsafe conditions, site or improvement deterioration, tax or assessment delinquencies that exceed land values, defective or unusual titles, or conditions endangering life or property;

2. Be predominately open land and impair growth because of the deteriorating condition of any structures;
3. Be in or adjacent to a federally assisted new community in a home-rule city;
4. Be located entirely in an area that meets the requirements for federal housing and community assistance;
5. Encompass outdoor advertising structures designated for relocation, reconstruction or removal to enhance a city's physical environment; or
6. Be reasonably likely to contribute to the expansion of primary employment or to attract beneficial major investment that would contribute to the economic development of the region.

A property owner who meets the guidelines adopted by the local government involved negotiates a tax abatement agreement under terms satisfactory to both parties. Abatement agreements entered into between a property owner and a local jurisdiction apply only to the taxes levied by that specific jurisdiction. Other jurisdictions in which the property is located are not required to enter into an abatement agreement and may negotiate different terms if they do.

Reporting: The property owner must file an annual *Application for Property Tax Abatement Exemption* with the appraisal district. The Comptroller is required to maintain a central registry of executed tax abatement agreements and the chief appraiser of a county that contains abated property must file an annual report with the Comptroller containing a description of the reinvestment zone, a copy of each tax abatement agreement and any other required information. The Comptroller must file a report on the information reported with the Legislature and the Governor before each regular session.

Legal Authority*:* Tax Code, Chapter 312

Administering Authority: Local taxing units

Texas Economic Development Act Value Limitations

A school district's board of trustees may designate an area entirely within the district's boundaries as a reinvestment zone for property value limitation purposes pursuant to a finding that it is reasonably likely to contribute to the expansion of primary employment or to attract beneficial major investment that would contribute to the economic development of the region. If a district establishes a reinvestment zone for value limitation purposes, it may enter into agreements with certain property owners or lessees to limit the taxable value of new investments in real and tangible personal property provided that a prescribed minimum level of investment is made. The limitation lasts for eight years and applies only to taxes levied for purposes of maintenance and operations.

To be eligible for a value limitation, applicants must agree to make a minimum amount of qualified investment ranging from $1 to $100 million in real or tangible personal property, depending on the amount of taxable value in the school district and whether it is located in certain rural counties or not. The property must be devoted to manufacturing, research and development, a clean coal project, an advanced energy project, renewable energy electric generation, electric power generation using integrated gasification combined cycle technology, nuclear electric power generation, or a computer center used primarily in connection with one of the other approved uses.

Unless waived by the school district, applicants must create a minimum number of new jobs (ten in certain rural counties and twenty-five elsewhere), eighty percent of which must: require 1,600 hours of work annually, be covered by an eighty-percent-employer-paid group health insurance plan, and pay ten percent above average wages in the county.

Most applicants must make the required amount of qualified investment between the time the agreement is approved and the end of the second complete tax year following. Nuclear power projects have seven years and advanced clean energy projects have five years to make qualified investments. Qualified investment includes certain types of personal property and structures but not land. However, the property that may receive a value limitation includes land and qualified investments made any time after the application is filed.

The minimum amount of qualified investment is subject to M&O taxation for the duration of the agreement. Value above the minimum qualified investment is exempt from M&O taxes during years three through ten. M&O taxes are paid on the full value of any property added to the tax roll during the two tax years following the agreement's approval. Property owners are entitled to apply to the school district for a credit for the taxes paid during those two years on value above the amount of required qualified investment. The school district applies the credit to the property owner's tax bill in equal installments over the following seven years. In turn, the school district annually files an application with the TEA for reimbursement of the tax credits they have granted.

Cities and counties may levy an impact fee on the owner of qualified property to cover the cost of providing related, necessary infrastructure improvements, including those for water, wastewater, storm water and roads.

Application/Approval Process: The property owner files a Comptroller-approved application form with the school district. If the school district chooses to consider the application, it is forwarded to the Comptroller and the central appraisal district. The Comptroller determines whether the property described in the application meets the eligibility requirements and an applicant may request a hearing before the State Office of Administrative Hearings (SOAH) to contest a negative determination; further appeal may be made to district court.

If the Comptroller determines that the property is eligible for a limitation, the Comptroller performs an economic impact evaluation of the application within 91 days and makes a recommendation to the school district on whether to accept or reject it. The school district has up to 151 days to act on an application. After a public hearing and a two-thirds vote of the school board, an application the Comptroller has not recommended may be approved, but the abated value then will not be deducted from the district's value that is used for calculating state aid.

Reporting: Property owners must submit to the school district each year an eligibility report on the status of limitation agreements. Additionally, property owners must submit in evennumbered years a biennial progress report containing more detailed status information. Each of these reports is forwarded to the Comptroller who uses them to compile a report assessing the progress of all agreements for submission to the Lieutenant Governor and all legislators before each regular legislative session. School districts also submit to the Comptroller a biennial cost report detailing the property value and tax data for each limitation agreement.

Legal Authority: Tax Code, Chapter 313

Administrative Rules: 34 Texas Administrative Code §§9.1051-9.1058

Administering Authority: Local school districts, Comptroller of Public Accounts

Tax Increment Financing

Cities and counties are allowed to use tax increment financing to pay for structural and infrastructure improvements to support business investments. The constitution, however, specifically grants only cities such authority and, consequently, no counties have acted to use tax increment financing as of the date of this publication. That may soon change, however, if voters approve a constitutional amendment to add county authorization which will appear on the November 2011 ballot.

The area included in a tax increment financing zone must meet all of the requirements of a reinvestment zone plus a number of additional conditions, among which are: no more than 30% of zone properties may be residential; in a city under 100,000, property values in the zone may not be more than 50% of the total value in the city; and in cities over 100,000 population, no more than 25% of the city's total appraised value may be in the zone and no more than ten percent of the square footage of commercial, industrial or multi-family structures may have been occupied in the preceding twelve years.

The cost of making improvements in a tax increment zone is repaid by all or a portion of the property taxes paid on the increased value resulting from subsequent private investments, other improvements made in the zone, and growth in the value of existing properties ("captured value"). The sales taxes paid on increased taxable sales in the zone may also be used to repay project costs. Not every jurisdiction with authority to tax within the tax increment zone must participate in it. Each affected taxing unit can choose whether to participate and what portion of their increased tax receipts, or tax increment, to contribute.

Application/Approval Process: The process of establishing a reinvestment zone for tax increment financing purposes may be initiated by a taxing unit's governing body on its own motion or by a petition filed by the owners of properties that comprise fifty percent or more of the appraised value within the proposed zone.

A number of actions are required before a zone is created, including: preparation of a preliminary zone financing plan by the creating taxing unit's governing body; a public hearing on the zone's creation must be held followed by a prescribed official action of the governing body; and the zone's board of directors must prepare both project and financing plans containing specified information and a recommended implementation plan for the governing body's approval.

Reporting: The governing body of the zone must annually report to the chief executive officer of each affected taxing unit the increment fund revenues and expenditures, debt service requirements, amount of captured value, and information demonstrating plan compliance. Before April 1 of the year following zone creation or plan approval, a report containing its description, guidelines and criteria, project and investment plans, and any other required information is submitted to the Comptroller who is required to maintain a central registry of zone descriptions, project and financing plans, and annual reports. The zone's annual report listed above also must be sent to the Comptroller who annually issues a report summarizing the information submitted for each zone.

Legal Authority*:* Tax Code, Chapter 311

Administering Authority: Local taxing units

Section 2: Grant Programs

Grants are payments made by a government to a business that agrees to do certain things, e.g., create qualifying jobs, invest in specified areas, etc. Unlike tax incentives, grants are typically made from general, or fungible, sources of revenue, rather than revenues specifically associated with the entity that receives the grant. Most of these programs include an application and approval process in which the government has discretion in approving applications. These programs involve payment from government to a business and are generally subject to appropriations limits. However, some grant programs have dedicated sources of revenue and do not require repeated appropriation.

- Agricultural Biomass and Landfill Diversion Incentive
- Defense Economic Adjustment Assistance Grant Program
- Moving Image Industry Incentive Program
- Texas Enterprise Fund
- The Event Funds
  - Events Trust Fund
  - Major Events Trust Fund
  - Motor Sport Racing Trust Fund
  - Special Events Trust Fund
- Young Farmer Grant Program

Agricultural Biomass and Landfill Diversion Incentive

Summary: The Agricultural Biomass and Landfill Diversion Incentive is a program created to provide incentives to build and operate facilities that use biomass to generate electricity by reducing the effective cost of those materials to the electric generator. The generation facility must have been placed in service after August 31, 2009, meet certain environmental requirements, and sell the electricity to a third party. The program reimburses operators of biomass electric generation facilities $20 per ton for "grants" they give to farmers, loggers, or diverters for providing agricultural biomass suitable for conversion into electricity. Facility operators that process unsuitable biomass into a form suitable for producing electric energy are also eligible for grants under this program. Facility operators are to be reimbursed for the grants they paid to biomass providers on a quarterly basis by the Department of Agriculture from funds available for that purpose.

The program is subject to a $30 million per year overall limit and has a $6 million per year cap on the amount that can be paid to any single operator. Although the program was created in 2007, and remains authorized in statute, it has not received any funding as of this date.

Legal Authority: Agriculture Code, Chapter 22

Administrative Authority: Department of Agriculture, which is to develop rules in consultation with the Public Utility Commission and the Texas Commission on Environmental Quality

Eligibility: Any farmer, logger, diverter, or renewable biomass aggregator and bio-coal fuel producer who delivers qualified biomass to the qualified electric generating facility. Any operator who processes unsuitable biomass into a form that is suitable for electric generation.

Application/approval process: The PUC and TCEQ assist the Dept. of Agriculture in determining whether the electric generation facility meets the requirements to make reimbursable grants to those who deliver the biomass.

Defense Economic Adjustment Assistance Grant Program

Summary: The Texas Defense Economic Adjustment Assistance Grant Program (DEAAG) was authorized by the 75th Legislature to provide state funds to assist communities that have been adversely impacted by decreased defense expenditures and defense worker employment. It was later amended to include defense communities that have been positively impacted and now also includes job retention. The economic development goal of the program is to increase and/or retain employment opportunities for dislocated defense workers and residents of adversely affected defense communities by purchasing, rehabilitating and reusing vacated defense related property. Funding for negatively affected communities can be used for the purchase of Department of Defense property, new construction or rehabilitation of facilities in support of job creating projects and opportunities, or for training or retraining defense workers whose jobs have been threatened, lost, gained or retained. Funding for positively impacted communities may be used to upgrade facilities that make the area more valuable or suitable for military uses.

Eligibility: DEAAG funding is available to local municipalities, counties, defense base development authorities, junior college districts and Texas State Technical College campuses, and regional planning commissions representing these communities.

Legal Authority: Government Code §2310.403

Administrative Rules*:* 1 Texas Administrative Code §§4.30-4.40

Administrative Authority: The Texas Military Preparedness Commission, the Governor's Office of Economic Development and Tourism

Application/Approval Process: An application for a grant under the DEAAG program must be filed with the Texas Military Preparedness Commission. Applicants are encouraged to seek other financial partners in the project for which a grant is sought. Applications are reviewed by both the Military Preparedness Commission and the Governor's Office of Economic Development and Tourism. Awards are made on a competitive basis, subject to available funds.

The Texas Military Preparedness Commission may provide up to: 50% of the amount of matching money or investment that the local governmental entity is required to provide in order to acquire federal grants; 50% of the local governmental entity's investment for qualifying redevelopment projects; 80% of the amount of matching money or investment required in cases where the local governmental entity demonstrates to the Commission that resources are not available because of a limited local governmental entity budget; or 100% to a public junior college, a campus or extension center for training or retraining. The minimum amount of an award is $50,000 and the maximum is $2 million.

Reporting: For two years following the completion of the project the local government entity must make quarterly reports of the number of qualified jobs created or retained by the project and the average annual salary for each position.

Moving Image Industry Incentive Program

Summary: The Moving Image Industry Incentive Program is intended to promote employment opportunities in the moving image industry and to boost economic activity in Texas cities and the overall state economy. It accomplishes this purpose by making grants to the producers of moving image projects that are based on the amount of eligible expenditures in the state.

The "moving image industry" includes feature films, television programs, visual effects projects associated with feature films and television programs, digital interactive media productions (video games), commercials, and educational or instructional videos. The grant is paid after completion of an approved project based on either the total amount of in-state spending involved or the total wages paid to Texas residents during the project. The amount of the grant can range from between 5 and 15 percent of eligible spending, or from between 8 and 25 percent of eligible wages, depending on the type of moving image project involved. An additional grant is possible if 25 percent of the project's filming days take place in an "underutilized and economically distressed area." The additional grant is equal to either 2.5 percent of total project spending in Texas or 4.25 percent of Texas wages.

Legal Authority: Government Code, Chapter 485

Administrative Rules: 13 Texas Administrative Code §§121.1-121.14

Administrative Authority: Texas Film Commission and Office of the Governor

Eligibility: To be eligible for a grant, the project must meet certain minimum qualifications:

Type of Project	Minimum Spending in Texas	Percent of Filming Days in Texas	Percent of Cast and Crew Texas Residents
Feature Films	$250,000	60%	70%*
Television Shows	$250,000	60%	70%*
Commercials	$100,000	60%	70%
Video Games	$100,000	60%	70%
Educational or Instructional Videos	$100,000	60%	70%
Visual Effects Projects			
Feature Film or TV	$250,000	60%	70%
Comm., Ed. or Instr. Video	$100,000	60%	70%

* At least 70% each of both cast and crew must be Texas residents.

An underutilized area of Texas is defined as: a metropolitan area that receives less than 15 percent of total film and television production in the state during a fiscal year. An economically distressed area is one that has a median household income that does not exceed 75 percent of the state median.

Moving image projects that are considered obscene or that portray Texas or Texans in a negative fashion are not eligible for grants.

Application/Approval Process: A Qualifying Application for a grant must be filed with the Texas Film Commission no earlier than 30 days before and no later than 5 PM Central Time on the business day prior to the first day of principal photography. The application must include a budget detailing estimated expenditures in Texas and detailed information about the content of the moving image project, including scripts, storyboards, or detailed outlines or summaries. This qualifying application begins the review and approval process, which ensures that the project meets all of the statutory requirements and that its content is appropriate. If so, the application is considered approved, and a grant agreement is executed between the applicant and the Film Commission. Feature films, television programs and visual effects projects associated with feature films or television programs may choose to have their grant amount calculated based on either their total spending in Texas or the total wages paid to Texas residents. Once that choice is made and it becomes a part of the grant agreement, it may not be changed.

An applicant's eligibility for a grant may be revoked at any time, including after the project is completed, for reasons such as obscene or inappropriate content, failure to meet minimum requirements, failure to provide requested documentation, providing false information, or for inability to complete the project.

Reporting: Once a project is completed, the applicant must provide the Film Commission with: a detailed budget showing actual expenditures in Texas; sufficient information to establish the residency status of all cast and crew members; and any further information necessary for the Governor's Office to audit the expenditure reports and the final content of the project.

Texas Enterprise Fund

The Texas Enterprise Fund (TEF) can be used for a variety of projects including infrastructure and community development, job training and direct business incentives. The fund is used primarily to attract new businesses to the state or to assist existing businesses with substantial expansions. It is considered to be the state's "deal closing" fund and can be used in conjunction with other incentives and resources to complete a competitive package for an economic development project. To be eligible for support, a project must demonstrate a significant return on the state's investment and have strong local support.

The TEF was created in 2003, and funded by an appropriation from the 77th Legislature. From 2006 through 2010, the TEF received a portion of Unemployment Compensation taxes when the Unemployment Compensation Trust Fund was above its floor. In 2011, the UI funding of the TEF was eliminated, but the TEF received appropriation authority to use all of its unexpended balances, plus investment earnings during the 2012-13 biennium. Through August, 31, 2010, the Texas Enterprise Fund had awarded 66 grants totaling $405.5 million. Those projects were associated with an estimated $14.3 billion in capital investment and nearly 53,000 direct jobs.

Legal Authority: Government Code §481.078

Application/Approval Process: An applicant submits a completed request to the Economic Development Office of the Governor. The office staff reviews the application and makes a recommendation to the Governor who negotiates the terms of each grant with the applicant, and if the grant is approved, enters into a contract with the recipient. Terms of the contract include the amount of the grant, the minimum number of jobs that will be created, the date those jobs will be created, and the average wages to be paid. The agreement also must contain "clawback" provisions describing how grant funds will be repaid to the State in the event that an applicant fails to live up to the negotiated terms.

The Governor, Lt. Governor, and Speaker of the Texas House must unanimously agree in favor of a project in order for an award to be granted. If the Lt. Governor or Speaker have not given their approval within 90 days of receiving the request from the Governor, the application is considered disapproved. The Lt. Governor and Speaker may request an additional 14 days to consider an application.

There are several primary requirements that a TEF project must meet in order to be considered for an award, including but not limited to the following:

- Competition with another state for the project must exist and the business must not have already announced a location decision.
- Projected new job creation must be significant - past recipients have typically created more than 100 jobs in urban areas or more than 50 in rural areas.
- The new positions must pay above the average wage of the county where the project would be located.
- Capital investment by the company must be significant.

- The project must have community involvement from the city, county and/or school district, primarily in the form of local economic incentive offers.
- The applicant must be financially sound and in good standing in the state where it was organized and owe no delinquent taxes to any jurisdiction in Texas.
- The applicant's business sector must be an advanced industry that could potentially locate in another state or country.

The amount of each award is determined using a "standardized analytical model" administered by the Governor's Office. The model is used to project whether the state will see a full return on investment from TEF awards through increased sales tax revenues during the life of the agreement as a result of the new project. Variations in award amounts are further influenced by the number of jobs to be created, the expected timeframe for hiring, and the average wages to be paid. The grant agreement may contain a provision withholding a portion of the grant until after specified performance targets are met.

The TEF Application may be downloaded at the following website:
http://governor.state.tx.us/files/ecodev/tefapp.doc

Administering Authority: Governor's Office of Economic Development and Tourism

Enforcement: TEF grant recipients are contractually obligated to fulfill the terms of their job creation agreements. Once a company has accepted a TEF offer, a signed contract is required prior to the distribution of an award. An entity that receives a TEF grant must submit an annual progress report to the Governor, Lt. Governor and Speaker of the House containing information regarding the attainment of each performance target specified in the contract.

The Event Funds

Texas has four separate programs that are designed to encourage certain sporting or non-sporting events to take place in the state. They are usually referred to by the "trust fund" into which grant money is transferred before being sent to the grant recipient. The four are: the Major Events Trust Fund, the Events Trust Fund, the Motor Sports Racing Trust Fund, and the Special Events Trust Fund. These programs reduce the effective cost to the host community and the sponsor of these events by covering a portion of the costs of securing the event, preparing for it, and conducting it using the additional state and local tax revenue that is generated by the people who participate and attend the event.

The four programs each require that an eligible event must have been chosen for a location in Texas in a competitive process that included consideration of at least one location outside Texas, and that the city or county where the event will take place endorses it. After an application is filed and the local sponsor conducts an economic study, an estimate of the additional state and local revenue from specified taxes is made by the Comptroller. This estimate creates a cap on the amount of money that can be paid out in grants for each event.

Money granted under these programs may be used for a very broad range of expenses associated with the site selection process, preparations for the event including facility costs, and conducting the event itself. The fund may not be used to solicit relocation of an existing Texas professional sports franchise.

The first event fund programs began in 2004. Through June 30, 2011, 226 events have been approved for grants totaling about $182 million under the four programs.

The four programs, while similar in many ways, have a number of significant differences. Figure 1 (p.57) is a chart prepared by the Comptroller that compares the major features of the four programs. The program descriptions that follow focus on the distinct features of each.

Events Trust Fund

Summary: The Events Trust Fund applies to any type of event for which an endorsing city, county or local organizing committee has received approval to hold in Texas from a site selection organization that conducted a competitive process that considered at least one site outside Texas. The venue must have been selected over others as a sole event site or, the sole site in Texas and adjoining states. An event or series of events may be conducted no more than once annually. Local and state gains from sales and use, auto rental, hotel and alcoholic beverage taxes generated over a 30-day period ending the day after an event may be used to pay costs incurred as a result of hosting the event and any other activities related to or associated with it. Because the period during which the event's impact is estimated is limited to 30 days, the Comptroller includes only the direct effects of the event in determining the amount of grant funds available. The trust fund may be used to pay costs related to: improving, constructing, renovating, or acquiring facilities; acquiring equipment for the event; or paying the principal and interest on notes used to build or improve facilities. One hundred percent of allowable expenses can be funded provided sufficient tax receipts are deposited in the trust fund.

***Legal Authority**:* Vernon's Texas Civil Statutes, Article 5190.14 Sec 5C

***Administrative Rules**:* 34 Texas Administrative Code §§2.200-2.204

***Administrative Authority**:* Comptroller of Public Accounts

***Eligibility**:* Any event or a related series of events held in this state for which a local organizing committee, endorsing county or endorsing city is seeking or has received approval from a site selection organization. Eligible events are not restricted to sports. Starting in fiscal 2010, non-sporting events, such as conventions and conferences, became eligible for Events Trust Fund reimbursements. There are no city or county population requirements.

Application/Approval Process: An application must be submitted to the Comptroller not later than four months prior to the event. It must contain: a letter from the municipality or county requesting participation; a letter from the site selection organization selecting the Texas site; and, an economic impact study or other data sufficient for the Comptroller to make the determination of the incremental increase in tax revenue associated with hosting the event in Texas.

***Reporting*:** After the conclusion of an event, the sponsor must provide information related to the event, such as attendance figures, financial information, or other public information held by the requestor that the Comptroller considers necessary to evaluate the event's success.

Major Events Trust Fund

Summary: The Major Events Trust Fund applies to a specific list of athletic events, and two non-athletic events that were added by the 82nd Legislature in 2011. Under the Major Events program, local and state gains from sales and use, auto rental, hotel and alcoholic beverage taxes that are attributable to an event over a 12-month period beginning two months prior to it may be used to pay costs incurred from hosting the event. Because the period over which the impact is measured extends well after the event, the Comptroller includes the indirect and induced effects of the event in determining the amount of grant funds available. The trust fund can be used to pay costs related to preparing for or conducting the event, including equipment, or to pay principal and interest on notes used to build or improve facilities. One hundred percent of allowable expenses can be funded provided sufficient tax receipts are deposited in the trust fund. An event expected to generate at least $15 million in local and state tax receipts is eligible for prior funding to attract and secure the event. If the event recurs, the previous year's receipts can be used to attract and secure subsequent events.

Legal Authority: Vernon's Texas Civil Statutes, Article 5190.14 Sec 5A

***Administrative Rules**:* 34 Texas Administrative Code §§2.100-2.105

Administrative Authority: Comptroller of Public Accounts

Eligibility: Eligible events include: The Super Bowl, NCAA Final Four tournament, National Basketball Association All Star Game, National Hockey League All Star Game, Major League Baseball All Star Game, NCAA Bowl Championship Series Game, World Cup Soccer Game, World Games, a national collegiate championship of an amateur sport sanctioned by a national governing body recognized by the U.S. Olympic Committee, an Olympic activity, including a Junior or Senior Olympic activity, a training program or feeder program sanctioned by the U.S. Olympic Committee's Community Olympic Development Program, Breeders' Cup World Championships, Formula One automobile races, the Country Music Awards, and the national convention of either the Republican or Democratic Party. An eligible event may not be held more than once per year.

Application/Approval Process*:* An application must be submitted to the Comptroller not later than three months before the event but not earlier than one year before the event date. It must contain: a letter of request from the municipality or county endorsing the event, a letter from the organization selecting the site in Texas, and an economic impact study or other data sufficient for the Comptroller to make the determination of the incremental increase in tax revenue associated with hosting the event in Texas.

Reporting: After the event is concluded, the sponsor is required to provide information sufficient for the Comptroller to evaluate the event's success. This information may include attendance figures and other financial data, but data may be withheld if it is considered proprietary in nature.

Motor Sports Racing Trust Fund

Summary: The Motor Sports Racing Trust Fund applies only to an automobile racing event sponsored by the Automobile Competition Committee for the United States (ACCUS) and held at a temporary venue. Only two such races have been held under this program—Indy Racing League motor races in 2006 and 2007 in Houston. Except for the narrower eligibility standards, the Motor Sports Racing Trust Fund operates under the same statutory procedures as the Events Fund.

Legal Authority*:* Vernon's Texas Civil Statutes, Article 5190.14 Sec 5B

Administrative Authority: Comptroller of Public Accounts

Eligibility: The event must be sanctioned by the Automobile Competition Committee for the United States (ACCUS) and held at a temporary venue.

Application/Approval Process: An application must be submitted to the Comptroller not later than four months prior to the event. It must contain: a letter from the municipality or county requesting participation in the trust fund program; a letter from the site selection organization selecting the Texas site; and, an economic impact study or other data sufficient for the Comptroller to make the determination of the incremental increase in tax revenue associated with hosting the event in Texas.

Reporting: A local organizing committee, city or county must provide any information required to enable the Comptroller to carry out the duties prescribed by statute, including audited annual financial records required by the site selection organization and data related to attendance and the economic impact of the event.

Special Events Trust Fund

Summary: The Special Events Trust Fund applies to any type of event held in a public place at a site within Texas that was selected in a competitive process that included consideration of at least one site outside Texas. While the Special Events Trust Fund is similar in some ways to the other three funds, there are several very important differences.

Foremost, only the additional *state* sales and use taxes generated during a period of up to 30 days from the day before the event is considered in determining the maximum size of the grant. Further, the overall economic impact window is limited to include only the period from the day prior to the event until the day following the last day of the event. Only effects directly attributable to the event are considered. The trust fund can be used to pay up to 50 percent of event-related costs, including: security, public transportation and traffic management services, facility rental, preparing or maintaining a contract, maintenance and janitorial services, or developing or providing an incentive or award associated with the event. Construction costs are not eligible for reimbursement.

The 2008 Latin Grammy Awards in Houston was the first non-sporting event approved for a Special Events Trust Fund reimbursement.

Legal Authority*:* Local Government Code, Chapter 398

Administrative Authority: Governor's Office of Economic Development and Tourism, Comptroller of Public Accounts

Eligibility: An event must be held in a public place and have been selected by an organization in a competitive selection process in which at least one non-Texas site was considered.

Application/Approval Process: The host community conducts an economic impact study and submits it to the Comptroller for certification at least seven months prior to the event. If the Comptroller certifies the study, the host community then submits a special event plan to the Governor's Office of Economic Development and Tourism. The plan must receive the written approval of the Governor, Lt. Governor and the Speaker of the House within 90 days after it has been received from the host community or it is considered disapproved. If the plan is approved, the Comptroller establishes a Special Event Trust Fund from which reimbursements of eligible expenses are made.

Reporting: A political jurisdiction making use of the Special Events Fund must provide the Comptroller with an audited financial statement to verify that all expenditures were authorized by law and any other information required by the Comptroller.

Figure 1.

Comparison of Event Trust Fund Programs (updated September 2009)

Susan Combs
Texas Comptroller of Public Accounts

Name	Major Events Trust Fund	Motor Sports Racing Trust Fund	Events Trust Fund	Special Events Trust Fund
Statute	Vernon's Texas Civil Statutes, Article 5190.14 Sec 5A	Vernon's Texas Civil Statutes, Article 5190.14 Sec 5B	Vernon's Texas Civil Statutes, Article 5190.14 Sec 5C	Local Government Code, Chapter 398
Eligible Events	Super Bowl, NCAA Final Four Tournament, NBA All-Star Game, NHL All-Star Game, MLB All-Star Game, NCAA BCS Game, World Cup Soccer Game, The World Games, National Collegiate Championship of an Olympic Sport, Breeders' Cup World Championships, Formula One automobile race	Automobile Racing events sanctioned by the Automobile Competition Committee for the United States (ACCUS) and held at a temporary venue.	An event or a related series of events held in this state for which a local organizing committee, endorsing county or endorsing city seeks approval from a site selection organization.	An event held in a public place, selected by an organization with a competitive selection process in which at least one non-Texas site was considered.
Population Requirements	No City or County size limitations	No City or County size limitations	No City or County size limitations	No City or County size limitations
Taxes Eligible for Reimbursement	General Sales and Use (Tax Code, Ch.151) Motor Vehicle Rental (Tax Code, Ch.152) Hotel Tax (Tax Code, Ch.156) Mixed Beverage (Tax Code, Ch.183) Title 5 Alcoholic Bev. Code	General Sales and Use (Tax Code, Ch.151) Motor Vehicle Rental (Tax Code, Ch.152) Hotel Tax (Tax Code, Ch.156) Mixed Beverage (Tax Code, Ch.183) Title 5 Alcoholic Bev. Code	General Sales and Use (Tax Code, Ch.151) Motor Vehicle Rental (Tax Code, Ch.152) Hotel Tax (Tax Code, Ch.156) Mixed Beverage (Tax Code, Ch.183) Title 5 Alcoholic Bev. Code	General Sales and Use (Tax Code, Ch.151)
State Review/Approval	Comptroller works with the applicant (city or county) to establish the amount of incremental tax gains resulting from the event – which is the basis of expense reimbursement.	Comptroller works with the applicant (city or county) to establish the amount of incremental tax gains resulting from the event – which is the basis of expense reimbursement.	Comptroller works with the applicant (city or county) to establish the amount of incremental tax gains resulting from the event – which is the basis of expense reimbursement.	Comptroller reviews/approves consultant's economic impact study. Application must be approved by the Governor, Lt. Governor, and Speaker of the House of Representatives.
Economic Impact "Window"	One Year	30 Days	30 Days	30 Day maximum
Application Deadline	Not earlier than one year and not later than 3 months before the event	Three months prior to event	Four months prior to event	Seven months prior to event
Reimbursement Allowed	100% of allowable expenses Limited by fund deposits	100% of allowable expenses Limited by fund deposits	100% of allowable expenses Limited by fund deposits	50% of allowable expenses
Allowable Expenses	• Principal and interest on notes issued by an endorsing municipality or county that are used to improve, construct, renovate, or acquire facilities or to acquire equipment for the event. • Payment of costs relating to the preparations necessary or desirable for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to facilities.	• Principal and interest on notes issued by an endorsing municipality or county that are used to improve, construct, renovate, or acquire facilities or to acquire equipment for the event. • Payment of costs relating to the preparations necessary or desirable for the conduct of the racing event and the payment of costs of conducting the racing event, including temporary improvements or renovations to facilities.	• Principal and interest on notes issued by an endorsing municipality or county that are used to improve, construct, renovate, or acquire facilities or to acquire equipment for the event. • Payment of costs relating to the preparations necessary or desirable for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to facilities. • Estimates of state revenue may be reduced for events held in Texas on previous occasions.	• Security, public transportation and traffic management services for the event. • Renting public facilities and the utilities associated with the use of the facilities during the event. • Preparing or maintaining a contract associated with conducting the event. • Maintenance and janitorial services in preparation for, during, or on completion of the event. • Developing or providing a special promotion, incentive, or award for or associated with the event. • Any other activity or item authorized in the special event plan.
Specific Use Limitations	Cannot be used to solicit relocation of a professional sports franchise already located in Texas.	Cannot be used to solicit relocation of a professional sports franchise already located in Texas.	Cannot be used to solicit relocation of a professional sports franchise already located in Texas.	Funds may not be used to construct a facility.

Young Farmer Grant Program

Summary: The purpose of the Young Farmer Grant Program is to provide financial assistance to persons between the ages of 18 and 46 that are engaged in, or will become engaged in, creating or expanding an agricultural business. The program provides grants of between $5,000 and $10,000, to match other funds available to the recipient on a dollar-for-dollar basis.

Legal Authority: Agriculture Code §§58.091-58.095

Administrative Authority: Texas Department of Agriculture, Rural Economic Division

Eligibility: An applicant must be between the ages of 18 and 45, have the funds necessary to match the state grant, and be planning to use the funds to establish or expand an agricultural business in Texas. The funds may be used for operating expenses, purchasing livestock and feed, leasing of land, and paying for capital expenses less than $5,000.

Application/Approval Process: Grant applications are accepted by the Texas Department of Agriculture during two periods each year. The application calls for: information on the agricultural and educational background and experience of the applicant; a description of the proposed project, including a budget; and the source of any matching funds. Grants are awarded based on the availability of funds, a scoring system (posted on the Department of Agriculture's website), the proposed use of the funds and other submitted information. Included in the approval process are: an assessment of the quality of the application; the applicant's financial need; and the project's ability to create, enhance or sustain the applicant's agricultural operations, improve overall Texas agricultural productivity, and increase the number of agricultural enterprises that are owned and operated by young farmers.

Reporting: A recipient is required to make an annual report showing the measurable results of the project and comparing those results to the project as originally proposed.

Section 3: Financing Tools

These are programs whereby the government provides access to, or reduces the cost of, capital to a business. These programs include direct or subsidized loans, loan guarantees, and even equity participation in the targeted businesses. An integral part of these programs is an application and approval process in which the government has considerable discretion. Most financing incentives are subject to appropriation constraints.

- Economic Development Bank
  - Capital Access Program
  - Industrial Revenue Bond Program
  - Linked Deposit Program
  - Product Development and Small Business Funds
- Jobs for Texas Program
  - Texas Loan Guarantee Program
  - Texas Small Business Venture Capital Program
- Rural Economic Development and Investment Program
- Texas Agricultural Finance Authority
  - Agricultural Loan Guarantee Program
  - Interest Rate Reduction Program
  - Young Farmer Interest Rate Reduction Program
- Texas Certified Capital Company Program
- Texas Emerging Technology Fund
- Texas Rural Investment Fund Program

Economic Development Bank

Summary: The Economic Development Bank is a facility within the Governor's Office of Economic Development and Tourism. Its purpose is to provide globally competitive, cost-effective state incentives to expand businesses operating in Texas or those relocating here. The Bank operates several programs designed to ensure that communities and businesses have access to capital to promote future economic development. Among the programs operated by the Economic Development Bank are the Capital Access Program, the Linked Deposit Program, the Product Development and Small Business Funds, and the Industrial Revenue Bond Program. Each of these is described below.

Legal Authority: Government Code, Chapter 489

Administrative Authority: Governor's Office of Economic Development and Tourism

Reporting: The Texas Economic Development and Tourism Office issues an annual status report on all banking activities on or before January 1 of each year. The Bank's effectiveness is measured by the number of jobs created and retained and the total amount of non-state funds leveraged as a result of the bank's efforts.

Capital Access Program

The Capital Access Program assists businesses and non-profit organizations in attaining access to capital by contributing to a "loan-loss reserve" established by participating financial institutions willing to make certain loans, or provide open lines of credit, to eligible businesses or non-profits. In the event of a default, the participating financial institution may charge off the loan and withdraw funds necessary to cover the loss from the reserve. The state's participation in funding the reserve effectively reduces the risk assumed by the financial institution, and therefore the cost of making the loans.

Eligible applicants include small (less than 100 employees) and medium-sized businesses (between 100 and 500 employees), or non-profit organizations. Eligible applicants must have at least 51 percent of their employees or members in Texas. Applicants can use the proceeds for projects, activities, or enterprises that will further economic development in Texas. Funds must be applied to working capital or the purchase, construction, or lease of capital assets, including buildings and equipment. Construction or purchase of residential housing and simple real estate transactions are not eligible.

Both the applicant and the participating financial institution contribute to the reserve account for each loan. The amount the state contributes to a reserve account depends on the size of the financial institution, the length of time it has participated in the program, and whether the applicant is located or will use the funds for a project, activity, or enterprise in an enterprise zone or for a day-care center or group day-care home.

Application for a Capital Access Loan is made at any participating financial institution. Terms of the loans are established by the borrower and the financial institution.

Legal Authority: Government Code §§481.401-481.414

Administrative Rules: 10 Texas Administrative Code §§187.1-187.17

Industrial Revenue Bond Program

The Industrial Revenue Bond Program is a method of providing financing for eligible industrial or manufacturing projects in accord with the Development Corporation Act. Under that act, political subdivisions of the state are authorized to establish Industrial Development Corporations (IDC's) to issue revenue bonds on their behalf that provide resources for the promotion and development of new and expanded business enterprises to encourage employment and enhance the public welfare. Projects that may be financed with industrial revenue bonds include land, buildings, equipment, facilities, targeted infrastructure, and improvements for the creation or retention of primary jobs, or for the development, retention, or expansion of a diverse list of business purposes. Bonds issued by the IDC's are repaid by the user of the property developed. Because the bonds were issued by the IDC, they may be tax-exempt and bear a lower interest cost than private borrowing. Generally, the bonds are backed by the revenue paid by the business using the property and are not a debt of the IDC, the governmental unit that created it, or the State of Texas.

The Economic Development Bank reviews Industrial Revenue Bond proposals for compliance with all applicable statutes and makes a recommendation to the Attorney General as to whether they should be approved. If approved by both the Bank and the Attorney General, the issuer may be required to make application to the Texas Bond Review Board for an allocation under the state's volume cap on private activity bonds.

Legal Authority: Local Government Code §§501-507

Linked Deposit Program

The Linked Deposit Program encourages lending to small and medium sized businesses that will begin operating in an enterprise zone, historically underutilized businesses, and child care providers. The cost of capital to the lender and the borrower is reduced by placing a "linked" state deposit in the participating financial institutions. The borrower must use the funds for working capital or to purchase, construct or lease capital assets, including land, buildings, and equipment.

A state depository that participates in the Linked Deposit Program is required to charge interest to the borrower at a rate no higher than the U.S. Treasury bill rate plus 4 percent. The state funds "linked" to the loan earn interest at a lower rate than is charged to the borrower in order to encourage financial institutions to participate in the program.

Applications for loans under the Linked Deposit Program are made with the participating state depository institution.

Legal Authority: Government Code §§481.491-481.199

Administrative Rules: 10 Texas Administrative Code §§182.51-182.59

Product Development and Small Business Funds

The Product Development and Small Business Funds are revolving loan programs established and funded by a $45 million general obligation bond issue in 2005. The Product Development Fund received $25 million and the Small Business Fund received $20 million from the bond issue. The two programs are self-sustaining and loan repayments go back into the funds to support further loan activity.

The Product Development program's purpose is to provide financing to aid in the development and production, including commercialization, of new and improved products in Texas. "Products" include inventions, devices, techniques, or processes that have advanced to the stage that they are readily capable of having commercial applications. The Small Business program is used to foster and stimulate small businesses in Texas. In determining products and businesses eligible for financing under the two programs, preference is given to those in the areas of semiconductors, nanotechnology, biotechnology, and biomedicine that have the greatest likelihood of commercial success, job creation, and job retention. Further preference is provided for small businesses, companies formed to commercialize research funded at least in part with state funds, businesses that have acquired some other sources of financing, and those that are residents of the state and performing the financed activities predominantly in Texas. A recipient of a loan under the Small Business program is not required to be a small business, but typically is. If it is not, it must be "substantially likely" to create opportunities for small businesses in the semiconductor, nanotechnology, biotechnology, or biomedicine industries.

Applications are filed with the Economic Development Bank, Office of the Governor. Prior to making a formal application for a loan under one of the two programs, a business may ask for a pre-application review to determine its eligibility. Bank staff reviews each application and recommend loans and terms to the Product Development and Small Business Incubator Board appointed by the Governor. The Board serves as a sort of "Loan Committee" for the two programs. Interest on loans is tied to the London Interbank Offered Rate (LIBOR). All loans are backed by the assets of the borrower.

Legal Authority: Government Code §§489.201-489.217

Administrative Rules: 10 Texas Administrative Code §§177.1-177.8

Jobs for Texas Program

Summary: The Jobs for Texas Program (J4T) is designed to increase credit availability for small businesses in rural and underserved areas of the state, as well as for women and minority owned enterprises. The program has been funded through a $46.6 million grant from the U.S. Treasury Department under the State Small Business Credit Initiative (SSBCI). The SSBCI consists of two separate programs: the Texas Loan Guarantee Program and the Texas Small Business Venture Capital Program. The federal grant will be apportioned $10 million to the loan guarantee program and $36.6 million to the venture capital program. The J4T Program is expected to be operational by late October or early November, 2011. Once operational, it is expected that the programs will become self-sustaining.

Legal Authority: Agriculture Code, Chapter 12

Administrative Authority: Texas Department of Agriculture

Texas Loan Guarantee Program

The Texas Loan Guarantee Program (TLGP) provides loan guarantees to lenders for business loans made to eligible borrowers. Under the program, a participating financial institution that has made a loan, using the lender's own underwriting criteria, may apply to the TLGP for a loan guarantee of up to 50 percent of the principal amount of the loan. If the loan meets state requirements, it is enrolled in the TLGP and a portion (25 percent) of the guaranteed amount is placed in a reserve that will be used to pay any losses in the event of a default. As guaranteed loans are paid off, funds in the reserve are freed up for use in guaranteeing other loans. No funds are paid out except to cover losses on guaranteed loans.

For a loan to eligible, the borrower must have 500 employees or less and the loan may not exceed $5 million. In addition, the lending financial institution must have a meaningful amount of its own capital at risk in the loan. Proceeds from loans guaranteed by the TLGP must be used for a business purpose, including start-up costs, working capital, business procurement, franchise fees, equipment, inventory, or the purchase, construction, renovation or tenant improvements of an eligible business. The funds may not be used for acquiring or holding passive investments or for speculative activities.

Texas Small Business Venture Capital Program

The Texas Small Business Venture Capital Program (the Venture Capital Program) leverages the state funds provided by the SSBCI grant to provide financing to small businesses by working with private venture firms. Federal guidelines require that the private financing must be sufficient to leverage the funding provided by the state by at least 10-to-1. Private financing can take the form of equity in the business, debt financing provided by a private source to the business, or any subsequent infusions of cash, debt or equity caused by the state investment.

Under the program, the state will request proposals from venture capital firms for small business investments. The investments must target an average business with 500 employees or less, with average principal amount of the venture investment of $5 million or less. As long as the average limits are maintained, the program may include businesses with up to 750 employees and investments of up to $20 million. The state will retain an equity interest in the businesses. Returns on investments of the Venture Capital Program will be returned to the fund for future investment.

Federal guidelines for the SSBCI program require states to demonstrate that a state venture capital program meets "reasonable standards of public benefit." Anticipated benefits include the number of projected permanent, full-time workers hired, and the increase in state and local taxes resulting from the small businesses assisted by the program, including taxes paid by both temporary and permanent workers hired as a result of the SSBCI support.

Rural Economic Development and Investment Program

The Rural Economic Development and Investment Program is a financial assistance program to encourage private development in rural areas. Program assistance may only be provided to a county with a population less than 75,000, a city with a population less than 50,000, or an Economic Development Corporation or Community Development Financial Institution that serves a jurisdiction meeting the population criteria. Financial assistance may be used only for: a project relating to the acquisition or development of land; easements or rights-of-way; attracting new private manufacturing; freight storage; distribution warehouse centers; other non-retail enterprises; or the construction, extension, or other improvement of water, waste disposal, or transportation infrastructure. The Commissioner of Agriculture may consider other activities related to private economic development to be eligible upon determining that it will encourage economic and infrastructure development in a rural area. Financial assistance may be in the form of direct loans, credit enhancement, interest rate reduction, financing of purchases or lease agreements, or methods of leveraging money from non-state sources.

The program was created in 2009, but has never been funded. If it is funded, the TDA will issue Requests for Proposals at such times and on such terms as may be determined by the Department.

Legal Authority: Agriculture Code §12.0271

Administrative Rules: 4 Texas Administrative Code §§29.70-29.77

Administrative Authority: Texas Department of Agriculture

Texas Agricultural Finance Authority

The Texas Agricultural Finance Authority is a facility operating within the Texas Department of Agriculture (TDA) to provide financial assistance to businesses and individuals for the expansion, development, and diversification of production, processing, marketing, and export of Texas agricultural products. The Authority is overseen by a Board of Directors appointed by the Commissioner of Agriculture and staffed by TDA employees. It operates three programs designed to increase the access to financial capital for those businesses and individuals engaged in agriculture – the Agricultural Loan Guarantee Program, the Interest Rate Reduction Program, and the Young Farmer Interest Rate Reduction Program. Each is described below.

Legal Authority: Agriculture Code, Chapter 58

Administrative Authority: Texas Department of Agriculture and Board of Directors appointed by the Commissioner of Agriculture

Agricultural Loan Guarantee Program

The Agricultural Loan Guarantee Program provides financial assistance in the form of loan guarantees to eligible applicants who will establish or enhance a farm or ranch operation, or an agricultural-related business. A loan guarantee recipient may use the proceeds of the loan for working capital, including the lease of facilities, or the purchase of machinery, equipment, or real estate, if identified in the business plan submitted to the lender. The program provides guarantees on a sliding scale up to the lesser of 70 percent of the loan or $750,000. Some borrowers may be eligible for an interest rebate, which cannot exceed $10,000 per year. Basic terms of the loan are determined by the borrower and the lender, but the duration of the loan may not extend beyond the useful life of the assets being financed. Loans must be secured by sufficient collateral to provide a reasonable assurance of repayment. A non-refundable fee of $100 is due when filing the application. TDA staff review applications and make recommendations to the Board, which approves or rejects each application or delegates that task to the Commissioner or a deputy commissioner.

Legal Authority: Agriculture Code §§58.051-58.056

Administrative Rules: 4 Texas Administrative Code §§28.20-28.37

Interest Rate Reduction Program

The Interest Rate Reduction Program (IRR) is designed to facilitate lower-than-market interest rate loans to borrowers who will use the funds in enterprises based on agriculture. The IIR program is not a guaranteed loan program. It is a “linked deposit” program in which eligible lenders (state depositories) agree to make loans to targeted individuals or businesses in return for deposits of state funds. The program is designed to provide an interest subsidy for these loans by accepting state funds at a rate of interest that is lower than the rate charged to the borrower. The maximum rate allowed on a covered loan is equal to the linked deposit rate plus 4 percent. Eligible borrowers include anyone who proposes to use the funds in a manner that will foster the creation and expansion of an agricultural business in Texas. Funds may be used for any agriculture-related operating expense, including the purchase or lease of land, acquisition or improvement of fixed assets, or in any enterprise based on agriculture. The maximum loan that may be covered is $500,000.

Legal Authority: Agriculture Code §44.007

Administrative Rules: 4 Texas Administrative Code §§28.10-28.19

Young Farmer Interest Rate Reduction

The Young Farmer Interest Rate Reduction Program is similar to the IRR program described above, but eligible borrowers are limited to those between the ages of 18 and 45. In addition, it provides for an effective interest rate that is one percent lower than the regular IRR program rate.

Legal Authority: Agriculture Code §§58.071-58.075

Administrative Rules: 4 Texas Administrative Code §§28.40-28.48

Texas Certified Capital Company Program

Summary: The Texas Certified Capital Company Program is a private, government-sponsored venture capital program designed to stimulate job creation and increase the availability of capital to small businesses in Texas. A Certified Capital Company (CAPCO) is a private entity created using equity capital provided partly by its principals and partly through indirect state funding in the form of "certified capital" invested in return for state tax credits by insurance companies that are subject to gross premiums taxes. Insurance companies that invest in CAPCO's are allowed to take a dollar-for-dollar credit against taxes on policy premiums. No insurance company may claim more than 15 percent of the total allocation of tax credits, and no more than $50 million in total credits may be taken in any single year. The state has no equity in the CAPCO's or in any of their investments.

Two separate "programs" have provided a total of $400 million in state indirect funding for 21 venture capital funds operated by 11 different firms. These firms are expected to make investments in, and provide financing to, small and early-stage businesses that will create or retain jobs and grow the Texas economy. Thirty percent of the CAPCO's certified capital must be invested within three years, and 50 percent within five years. No more than 15 percent may be invested in any single company.

Since all of the currently authorized tax credits have been allocated, no further CAPCO's may be created at this time, but the existing CAPCO's can, and are, still making investments in "qualified businesses." According to the Comptroller's latest biennial report on the program, CAPCO's had made a total of $188.7 million in investments through January 1, 2010.

Legal Authority: Insurance Code, Chapter 228

Administrative Rule: 34 Texas Administrative Code §3.833

Administrative Authority: Comptroller of Public Accounts, Texas Treasury Safekeeping Trust Fund Company

Eligibility: To qualify as a CAPCO, a company must be organized and authorized to do business in Texas and have: equity capital of at least $500,000; at least two principals or employees with at least four years' experience in the venture capital industry engaged in the management of the funds; and an unqualified independent audit dated not more than 35 days prior to application.

Businesses "qualified" to receive CAPCO funding must be headquartered, or have a principal office in Texas, have no more than 100 employees with 80 percent of those residing in Texas or 80 percent of its payroll in Texas, be primarily engaged in manufacturing, processing or assembling products, conducting research and development, or in providing non-professional services. They may not be engaged in retail sales, real estate development, insurance, banking, or lending, or providing professional services.

Application/Approval Process: A firm seeking to become a CAPCO files an application with the Comptroller containing sufficient information to establish its eligibility, operational philosophy and business plan. If approved by the Comptroller, a CAPCO may solicit qualified capital from insurance companies and receive an allocation of tax credits which may be used by insurance company investors in return for their investments.

A qualified business that wishes to receive funding from a CAPCO makes application directly to the CAPCO on such terms and conditions as it prescribes.

Reporting: CAPCO's are required to report annually to the Comptroller, who is required to make a biennial report to the Legislature.

Texas Emerging Technology Fund

Summary: The Texas Emerging Technology Fund (ETF) was established in 2005 to expedite innovation and commercialization of research, expand private sector businesses that will promote a substantial increase in high-quality jobs, and increase higher education applied technology research capabilities. There are three major programs that receive funds from the ETF. They are usually referred to by the Subchapter of the statute that created the ETF: 1) Subchapter D Incentives for Commercialization Activities. These are funds to help private or non-profit entities take ideas from concept to the marketplace. Under Subchapter D, state funds from the ETF result in equity in the business for the state, or in a note convertible into equity. 2) Subchapter E Research Award Matching. The funds go to public-private partnerships which leverage other federal major research sponsor's grant programs to accelerate the commercialization of research done at public and private institutions of higher education in Texas. 3) Subchapter F Grants for Acquisition of Research Superiority. These funds go to Texas higher education institutions to recruit the best research talent in the world in the targeted industries. Only Subchapter D is treated as an economic development incentive under the definition used in this report, because it is the only part of the ETF program that has the direct effect of providing financing to businesses to encourage them to conduct and expand their activities in Texas.

The Emerging Technology Fund was created in 2005, and funded with an initial appropriation of \$200 million, with 50 percent of that earmarked for Subchapter D awards. Subsequent legislatures authorized additional funding, both through direct appropriations and by temporarily authorizing use of certain Unemployment Compensation system funds, which authority was eliminated by the 82nd Legislature.

As of the January 2011 Annual Report to the Legislature, the ETF had made a total of 120 awards totaling just over \$170 million. One business financed by the ETF was sold in 2007, producing a net return of 116 percent on the state's equity, and four of the businesses awarded ETF financing have either declared bankruptcy or ceased operations.

Legal Authority: Government Code, Chapter 490

Administrative Authority: Emerging Technology Fund Advisory Committee and Governor's Office of Economic Development and Tourism

Eligibility: To be eligible for funding, a company must be part of a designated list of emerging technology industries which includes: semiconductors, computer and software technology, energy, manufactured energy systems, micro-electromechanical systems, nanotechnology, biotechnology, medicine, life sciences, petroleum refining and chemical processes, aerospace, defense, and any other industry, as determined by the Governor. The company also must be able to create new high-quality jobs, either immediately or over a longer period of time, or have the potential for a medical, scientific, or clean energy breakthrough.

Application/Approval Process: The application and approval process has three primary stages. First, a company must apply to one of the "Centers for Innovation and Commercialization" established to perform an initial evaluation of potential projects. Seven regions of the state have been established for this purpose (RCICs), along with one statewide Texas Life Science Center. The RCICs act as the regional agents for the ETF Advisory Committee to identify, evaluate, and submit promising proposals from their respective regions.

Priority for program approval is given to proposals that 1) “have a reasonable probability of enhancing [the] state’s national and global reputation,” 2) may result in a “medical or scientific breakthrough,” 3) are “collaborative” in nature, 4) are matched by other funds, and 5) “have a demonstrable economic development benefit to this state.” An entity that receives financing from the ETF must guarantee in the contract with the state that “a substantial percentage of any new or expanded commercialization or manufacturing resulting from the award will be established in this state.”

The ETF Advisory Committee makes a final review of the proposals and forwards recommended projects to the Governor, Lt. Governor and Speaker of the House. The Governor negotiates the proposed financial and other terms for the deal. Any equity considerations provided to the state are also a part of the contract negotiated by the Governor. A grant agreement must also contain provisions requiring the creation of a minimum number of jobs and must specify when those jobs will be created. Unanimous approval by the Governor, Lt. Governor and Speaker of the House is required before a final award of financing may be granted. Under legislation passed by the 82nd Legislature, any proposal not approved by the Lt. Governor and Speaker within 90 days of having been submitted by the Governor is considered rejected. Before receiving any grant money, the company and all parties have to contractually agree to perform the specific actions expected to provide benefit to the state.

Reporting: The statutes provide no specific reporting requirements for the recipients of ETF financing, however the Governor is required to make a detailed annual report on the Fund’s activities. If the recipient of an award fails to fulfill their obligations under the grant agreement, the grant must be repaid. The repayment may be prorated to reflect a partial attainment of any of the performance goals, but must be prorated if the job creation goals are not attained.

Texas Rural Investment Fund Program

The Texas Rural Investment Fund program's purpose is to make grants or loans to public or private entities for projects in rural communities that will stimulate local entrepreneurship, job creation, new capital investment, housing development, or innovative workforce education. Grants from the fund may be made only in cities with populations less than 50,000 or counties with less than 200,000. Grants from the fund are awarded based on the project's effect on job creation and wages, the financial strength and business history of the applicant, an analysis of the relevant business sector, whether there is public or private sector financial support, and whether there is substantial community support.

The program was created in 2009, but has never been funded. If it is funded, the TDA will issue Requests for Proposals at such times and on such terms as may be determined by the Department.

Legal Authority: Agriculture Code §12.046

Administrative Rules: 4 Texas Administrative Code §§29.60-29.66

Administrative Authority: Texas Department of Agriculture

Section 4: Provision of Services

These are programs where the government conducts activities directly on behalf of a business. They require direct governmental expenditures—building a new road, expanding water facilities, training specialized workers, etc.—that will facilitate the operation of the business. They generally require prior application and approval and are usually subject to appropriations.

- Skills Development Fund
- Skills for Small Business Program
- Texas Capital Fund
  - Infrastructure Development
  - Real Estate Development

Skills Development Fund

Summary: The Skills Development Fund (SDF) provides funding for customized job-training programs for an individual business, union, or business consortium with the intent of either creating or retaining jobs. A business, consortium of businesses, or trade union identifies a training need, and then partners with a public community or technical college, the Texas Engineering Extension Service (TEEX), or a community-based organization (CBO) that is working with one of the public institutions to fill its specific needs. Grants are made by the Texas Workforce Commission (TWC) to one of the public partners who will provide the customized training. Projects are developed with the objective that they will help create and attract high-value, high-skill jobs for the state that will facilitate the growth of industry and emerging occupations. The Texas Workforce Commission attempts to allocate SDF grants 60 percent to job retention projects and 40 percent to training for job creation. The Skills Development Fund is financed from a portion of Unemployment Compensation taxes when the UI Trust Fund is above its statutory floor.

Legal Authority: Labor Code, Chapter 303

Administrative Rules: 40 Texas Administrative Code §§803.1-803.32

Administrative Authority: Texas Workforce Commission

Eligibility: Public community colleges, technical colleges, the Texas Engineering Extension Service, and community-based organizations that partner with a business, business consortium, or union to conduct customized training are eligible for SDF grants. Only for-profit businesses and non-profit hospitals may partner in Skills Development projects. Projects can provide training to retain jobs in Texas or to create new jobs, but may not include training and related costs for an employer that relocates their worksite from one location in Texas to another. The business must be actively involved in the planning and design of the customized training project and pay wages to the employees who successfully complete the training program that are equal to or greater than the prevailing wage for the occupation in the local labor market.

Application/Approval Process: An application to the TWC is made jointly by the private partner and the public training provider requesting funding for a customized training program or other appropriate use of the fund. Prior to the application's filing, the project must be submitted to the local workforce board, or boards, in areas where there will be a significant impact on job creation or incumbent worker training. The application must indicate whether the proposal is also being submitted for a Texas Enterprise Fund grant. The proposal must contain the number of jobs being created or retained, a brief outline of the training project, the skills to be acquired through training, the occupation and wages to be paid participants who complete the training, and the employer's involvement in designing and planning the program. It also must include a signed agreement between the public and private parties outlining the roles and responsibilities of each party.

Each application is reviewed and evaluated by considering: the purposes and objectives of the Skills Development program; the prevailing wage for occupations in the labor market area; the financial stability of the private partner; the regional economic impact; and any other factors unique to the circumstances that TWC determines are appropriate.

Reporting: The TWC is required to submit an annual report on the program.

Skills for Small Business Program

The Skills for Small Business Program provides funding for small businesses to obtain training for new and existing employees. Funded from a $2 million portion of the Skills Development Fund, it allows businesses to apply for training subsidies of up to $1,450 for each new employee hired less than 3 months before the application, or up to $725 per employee for other workers. The subsidy may be used to pay for tuition and fees associated with the training. Unlike the regular Skills Development Fund program, however, the training is not customized to the individual employer, but must be selected from active course catalogues or schedules, or other available courses at a public community or technical college, or the Texas Engineering Extension Service. Regular credit, continuing education, on-line or other available unpublished courses are eligible for funding. While the training subsidy is greater for newly employed workers, the stated objective of the program is to help small businesses get the training necessary to upgrade the skills of their workers in ways that will benefit and enhance the business's operations.

Legal Authority: Labor Code §303.003(b-1)

Administrative Authority: Texas Workforce Commission

Eligibility: The business must be a private employer that has between 1 and 99 employees and is financially stable. It must also be in compliance with the Business and Commerce Code and the Unemployment Insurance system. Courses must be available from a public community or technical college or the Texas Engineering Extension Service. Course offerings from universities, proprietary or vocational schools, or third-party vendors are not eligible. For a business to be eligible, it must pay the prevailing wage in the labor market area to the trainees covered. An individual provided training under the program is eligible only once in any 12-month period, but a business may apply more than once if the application covers different individuals. A business may participate in both the Skills for Small Business Program and the Skills Development Fund Program at the same time, but the specific training provided must be different.

Application/Approval Process: The employer must make application to the Texas Workforce Commission (TWC) and identify the specific employees to be trained, the wages they will be paid, and the courses each one will take. The applicant must also identify the public community or technical college that will provide the training. If the application is approved, TWC will notify the community or technical college that will provide the training, and make payments directly to the college, not the employer. The college is responsible for tracking the training and reporting to TWC.

Texas Capital Fund

The Texas Capital Fund is a program to encourage business development, retention, and expansion in non-metropolitan areas of the state. Its operation is being assumed by the Texas Department of Agriculture (TDA) from the Department of Rural Affairs under legislation passed by the 82nd Legislature. Funds are provided as a part of the U.S. Department of Housing and Urban Development's Community Development Block Grant (CDBG) program. Fund programs are available only to city or county governments that do not receive CDBG funding directly (non-entitlement communities), typically cities of less than 50,000 population and counties of less than 200,000. Funds are awarded for projects that assist in the creation of new permanent jobs, or the retention of existing permanent jobs, primarily for persons of low or moderate income. Two of the Fund's programs provide direct services to businesses—the Infrastructure Development Program and the Real Estate Development Program. Each is described below.

Legal Authority: Government Code §487.351

Administrative Authority: Texas Department of Agriculture

Infrastructure Development

The Infrastructure Development program provides funds for non-entitlement communities to provide public infrastructure to support specific businesses that commit to create or retain permanent jobs in their jurisdictions. No more than three businesses may benefit from any one project. At least 51 percent of the jobs created or retained must be held by, or created for, low or moderate income individuals, and the "cost-per-job" must fall below established limits. Funds may be used for: water and sewer lines; road and street improvements; natural gas, electric, telephone or fiber optic lines; harbor or channel dredging; the purchase of real estate related to the infrastructure; drainage facilities; traffic signals and signs; or railroad spurs. The cost of infrastructure located on the private property of a business must be repaid according to terms established by the program.

Assistance cannot be provided for projects involving a relocation from another state if there will be a significant loss of employment in the labor market area from which the relocation occurs, or from another location in Texas unless there is a net gain in jobs of 10 percent or more. Even if a net gain occurs, the other location in Texas may object and prevent a project from being eligible.

Businesses and individuals may not apply directly for funding from the program, but must be identified in the project application by an eligible city or county. Applications are filed by an eligible political jurisdiction with TDA where staff reviews and scores projects, and makes a recommendation to the Commissioner. Awards may range from a minimum of $50,000 to a maximum of $1.5 million. Projects receiving more than $750,000 require significantly higher job creation or retention and capital matching. The award may not exceed 50 percent of the total project cost, and the business that will benefit must provide at least 10 percent of the total, a minimum of 2.5 percent of which must be in cash.

Administrative Rule: 10 Texas Administrative Code §255.7

Real Estate Development

The Real Estate Development program provides funds for non-entitlement cities and counties to be used to purchase, construct, or rehabilitate real estate that is wholly or partially owned by the community and leased to a specific business that commits to create or retain permanent jobs, at least 51 percent of which must be created for or held by low and moderate income individuals. The business may be either a for-profit or non-profit entity. Real estate improvements require full repayment to the local jurisdiction through a lease that lasts a minimum of three years. The lease may include a purchase option but it cannot be exercisable for at least five years. Furthermore, the purchase price must be at least equal to any amount of the original Real Estate Development grant that has not been recaptured.

Assistance cannot be provided for projects involving a relocation from another state if there will be a significant loss of employment in the labor market area from which the relocation occurs, or from another location in Texas unless there is a net gain in jobs of 10 percent or more. Even if a net gain occurs, the other location in Texas may object and prevent a project from being eligible.

Businesses and individuals may not apply directly for funding from the program, but must be identified in the project application by an eligible city or county. Applications are filed by an eligible political jurisdiction with TDA where staff reviews and scores projects, and makes a recommendation to the Commissioner of Agriculture. Awards may range from a minimum of $50,000 to a maximum of $1 million. Projects receiving more than $750,000 require significantly higher job creation or retention and capital matching. The award may not exceed 50 percent of the total project cost. The business must provide at least 10 percent of the equity or 33 percent if it has been operating for less than three years. The property may not be sold or transferred for a minimum of five years.

Administrative Rule: 10 Texas Administrative Code §255.7

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