

2 **ESHB 1493** - S COMM AMD (S2789.4)

3 By Committee on Trade, Technology & Economic Development

4 ADOPTED AS AMENDED BY WM (S3134.1) AND 000841; 4/16/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** INTENT. It is the intent of the
8 legislature to combat discrimination in the economy.

9 (1) The legislature finds that discrimination is in part
10 responsible for:

11 (a) The disproportionately small percentage of the state's
12 businesses that are owned by minorities and women;

13 (b) The limited and unequal opportunity minority and women
14 entrepreneurs and business owners have to procure small business
15 financing; and

16 (c) The difficulty many minority and women-owned contracting
17 businesses have in securing bonds and contract work.

18 (2) The legislature further finds that:

19 (a) Many minority and women entrepreneurs and business owners lack
20 training in how to establish and operate a business. This lack of
21 training inhibits their competitiveness when they apply for business
22 loans, bonds, and contracts;

23 (b) Minorities and women are an increasingly expanding portion of
24 the population and work force. In order for these individuals to fully
25 contribute to the society and economy it is necessary to ensure that
26 minority and women entrepreneurs and business owners are provided an
27 equal opportunity to procure small business financing, bonds, and
28 contracts; and

29 (c) The growth of small businesses will have a favorable impact on
30 the Washington economy by creating jobs, increasing competition in the
31 marketplace, and expanding tax revenues. Access to financial markets,
32 bonds, and contracts by entrepreneurs and small business owners is
33 vital to this process. Without reasonable access to financing, bonds,
34 and contracts, talented and aggressive entrepreneurs and small business
35 owners are cut out of the economic system and the state's economy
36 suffers.

1 (3) Therefore, the legislature declares there to be a substantial
2 public purpose in providing technical assistance in the areas of
3 marketing, finance, and management, and access to capital resources,
4 bonds, and contracts, to help start or expand a minority or women-owned
5 business, and specifically to encourage and make possible greater
6 participation by minorities and women in international trade, public
7 works and construction, and public facility concessions. To accomplish
8 these purposes, it is the intent of the legislature to:

9 (a) Develop or contract for training courses in financing,
10 marketing, managing, accounting, and recordkeeping for a small business
11 and to make these programs available to minority and women
12 entrepreneurs and small business owners;

13 (b) Make public works and construction projects, public facility
14 concessions, and purchase of goods and services accessible to a greater
15 number of minority and women-owned businesses;

16 (c) Provide for the lending of nonstate funds to qualified minority
17 and women entrepreneurs and business owners in order to provide the
18 maximum practicable opportunity for innovative minority and women
19 entrepreneurs and business owners to compete for small business
20 financing; and

21 (d) Provide professional services assistance grants and bond
22 guarantees on behalf of qualified contractors in order to provide the
23 maximum practicable opportunity for minority and women-owned
24 contracting businesses to participate in the Washington state economy
25 by bidding and completing various public and private contracting jobs.

26 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
27 requires otherwise, the definitions in this section apply throughout
28 this chapter.

29 (1) "Minority" means persons of color, including African-Americans,
30 Hispanic/Latino Americans, Native Americans, and Asian/Pacific
31 Islanders Americans;

32 (2) "Minority and women-owned business" means any resident minority
33 business enterprise or women's business enterprise, certified as such
34 by the office of minority and women's business enterprises under
35 chapter 39.19 RCW and consistent with subsection (1) of this section.

36 I. EDUCATION AND TECHNICAL ASSISTANCE

1 **Sec. 3.** RCW 43.31.085 and 1989 c 430 s 2 are each amended to read
2 as follows:

3 MARKETING, FINANCE, AND MANAGEMENT ASSISTANCE. The business
4 assistance center shall:

5 (1) Serve as the state's lead agency and advocate for the
6 development and conservation of businesses.

7 (2) Coordinate the delivery of state programs to assist businesses.

8 (3) Provide comprehensive referral services to businesses requiring
9 government assistance.

10 (4) Serve as the business ombudsman within state government and
11 advise the governor and the legislature of the need for new legislation
12 to improve the effectiveness of state programs to assist businesses.

13 (5) Aggressively promote business awareness of the state's business
14 programs and distribute information on the services available to
15 businesses.

16 (6) Develop, in concert with local economic development and
17 business assistance organizations, coordinated processes that
18 complement both state and local activities and services.

19 (7) (~~The business assistance center shall~~) Work with other
20 federal, state, and local agencies and organizations to ensure that
21 business assistance services including small business, trade services,
22 and distressed area programs are provided in a coordinated and cost-
23 effective manner.

24 (8) Provide or contract for technical assistance to minority and
25 women-owned business enterprises in a variety of areas, including, but
26 not limited to, marketing, finance, bidding and estimating assistance,
27 public contracting assistance, and management.

28 (9) In collaboration with the child care coordinating committee in
29 the department of social and health services, prepare and disseminate
30 information on child care options for employers and the existence of
31 the program. As much as possible, and through interagency agreements
32 where necessary, such information should be included in the routine
33 communications to employers from (a) the department of revenue, (b) the
34 department of labor and industries, (c) the department of community
35 development, (d) the employment security department, (e) the department
36 of trade and economic development, (f) the small business development
37 center, and (g) the department of social and health services.

38 (~~(+9)~~) (10) In collaboration with the child care coordinating
39 committee in the department of social and health services, compile

1 information on and facilitate employer access to individuals, firms,
2 organizations, and agencies that provide technical assistance to
3 employers to enable them to develop and support child care services or
4 facilities.

5 ~~((10))~~ (11) Actively seek public and private money to support the
6 child care facility fund described in RCW 43.31.502, staff and assist
7 the child care facility fund committee as described in RCW 43.31.504,
8 and work to promote applications to the committee for loan guarantees,
9 loans, and grants.

10 **Sec. 4.** RCW 43.31.055 and 1985 c 466 s 6 are each amended to read
11 as follows:

12 EXPORT ASSISTANCE. The department shall assist in expanding the
13 state's role as a major international gateway for landing and
14 transshipping goods bound for domestic and foreign markets. The
15 department shall identify and work with Washington businesses,
16 especially minority and women-owned businesses and ethnic community-
17 based organizations, which can utilize state assistance to increase
18 domestic and foreign exports and are capable of increasing production
19 of goods and services, including but not limited to manufactured goods,
20 raw materials, services, and retail trade. The department shall
21 participate in trade and industry exhibitions both foreign and domestic
22 to promote and market state products and services. The department's
23 activities shall include, but not be limited to:

24 (1) Operating an active and vigorous effort to market the state's
25 products and services internationally, coordinated with private and
26 public international trade efforts throughout the state.

27 (2) Coordinating with the domestic and foreign export market
28 development activities of the state department of agriculture.

29 (3) Sending delegations to foreign countries and other states to
30 promote trade with Washington.

31 (4) Acting as a centralized location for the assimilation and
32 distribution of trade information.

33 (5) Identifying domestic and international markets in which
34 minority and women-owned businesses may have an advantage and providing
35 technical assistance to develop capacity for minority and women-owned
36 businesses to participate in international trade.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.210 RCW
2 to read as follows:

3 The small business export finance assistance center shall develop
4 a minority business export outreach program. The program shall provide
5 outreach services to minority-owned businesses in Washington to inform
6 them of the importance of and opportunities in international trade, and
7 to inform them of the export assistance programs available to assist
8 these businesses to become exporters.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.31 RCW
10 to read as follows:

11 ENTREPRENEURIAL TRAINING COURSES. The department of trade and
12 economic development shall contract with public and private agencies,
13 institutions, and organizations to conduct entrepreneurial training
14 courses for minority and women-owned small businesses. The instruction
15 shall be intensive, practical training courses in financing, marketing,
16 managing, accounting, and recordkeeping for a small business, with an
17 emphasis on federal, state, local, or private programs available to
18 assist small businesses. The business assistance center may recommend
19 professional instructors, with practical knowledge and experience on
20 how to start and operate a business, to teach the courses. Instruction
21 shall be offered in major population centers throughout the state at
22 times and locations which are convenient for minority and women small
23 business owners and entrepreneurs.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.31 RCW
25 to read as follows:

26 BUSINESS ASSISTANCE CENTER MINORITY AND WOMEN BUSINESS DEVELOPMENT
27 OFFICE. There is established within the department's business
28 assistance center the minority and women business development office.
29 This office shall provide business-related assistance to minorities and
30 women as well as serve as an outreach program to increase minority and
31 women-owned businesses' awareness and use of existing business
32 assistance services.

33 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
34 sections 5 and 6 of this act, referencing sections 5 and 6 of this act
35 by bill and section numbers, is not provided by June 30, 1993, in the

1 omnibus appropriations act, sections 5 and 6 of this act are null and
2 void.

3 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

4 **Sec. 9.** RCW 39.19.060 and 1983 c 120 s 6 are each amended to read
5 as follows:

6 Each state agency and educational institution shall comply with the
7 annual goals established for that agency or institution under this
8 chapter for public works and procuring goods or services. This chapter
9 applies to all public works and procurement by state agencies and
10 educational institutions, including all contracts and other procurement
11 under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state
12 agency shall adopt a plan, developed in consultation with the director
13 and the advisory committee, to insure that minority and women-owned
14 businesses are afforded the maximum practicable opportunity to directly
15 and meaningfully participate in the execution of public contracts for
16 public works and goods and services. The plan shall include specific
17 measures the agency will undertake to increase the participation of
18 certified minority and women-owned businesses. The office shall
19 annually notify the governor, the state auditor, and the legislative
20 budget committee of all agencies and educational institutions not in
21 compliance with this chapter.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 39.19 RCW
23 to read as follows:

24 (1) State agencies shall not require a performance bond for any
25 public works project that does not exceed twenty-five thousand dollars
26 awarded to a prequalified and certified minority or woman-owned
27 business that has been prequalified as provided under subsection (2) of
28 this section.

29 (2) A limited prequalification questionnaire shall be required
30 assuring:

31 (a) That the bidder has adequate financial resources or the ability
32 to secure such resources;

33 (b) That the bidder can meet the performance schedule;

34 (c) That the bidder is experienced in the type of work to be
35 performed; and

1 (d) That all equipment to be used is adequate and functioning and
2 that all equipment operators are qualified to operate such equipment.

3 III. LOAN FUND AND GUARANTEES

4 **Sec. 11.** RCW 43.168.030 and 1985 c 164 s 3 are each amended to
5 read as follows:

6 (1) The Washington state development loan fund committee is
7 established as an entity within the department of community
8 development. The committee shall have (~~seven~~) eight members. The
9 director shall appoint the members, subject to the following
10 requirements: (a) Three members shall be experienced in investment
11 finance and have skills in providing capital to new and innovative
12 businesses, in starting and operating businesses and providing
13 professional services to small or expanding businesses; (b) two members
14 shall be residents of distressed areas; (c) one member shall represent
15 organized labor; (~~and~~) (d) one member shall represent a minority
16 business; and (e) one member shall represent a women-owned business.
17 Careful consideration in making these appointments shall be taken to
18 ensure that the various geographic regions of the state are
19 represented, that members will be available for meetings on a regular
20 basis, and will have a commitment to working with local governments and
21 local development organizations.

22 (2) Each member appointed by the director shall serve a term of
23 three years, except that of the members first appointed, two shall
24 serve two-year terms and two shall serve one-year terms. A person
25 appointed to fill a vacancy of a member shall be appointed in a like
26 manner and shall serve for only the unexpired term. A member is
27 eligible for reappointment. A member may be removed by the director
28 only for cause.

29 (3) The director shall designate a member of the board as its
30 chairperson. The committee may elect such other officers as it deems
31 appropriate. (~~Four~~) Five members of the committee constitute a
32 quorum and (~~four~~) five affirmative votes are necessary for the
33 transaction of business or the exercise of any power or function of the
34 committee.

35 (4) The members of the committee shall serve without compensation,
36 but are entitled to reimbursement for actual and necessary expenses

1 incurred in the performance of official duties in accordance with RCW
2 43.03.050 and 43.03.060.

3 (5) Members shall not be liable to the state, to the fund, or to
4 any other person as a result of their activities, whether ministerial
5 or discretionary, as members except for wilful dishonesty or
6 intentional violations of law. The department may purchase liability
7 insurance for members and may indemnify these persons against the
8 claims of others.

9 **Sec. 12.** RCW 43.168.050 and 1990 1st ex.s. c 17 s 74 are each
10 amended to read as follows:

11 (1) The committee may only approve an application providing a loan
12 for a project which the committee finds:

13 (a) Will result in the creation of employment opportunities ~~((or))~~,
14 the maintenance of threatened employment, or development or expansion
15 of business ownership by minorities and women;

16 (b) Has been approved by the director as conforming to federal
17 rules and regulations governing the spending of federal community
18 development block grant funds;

19 (c) Will be of public benefit and for a public purpose, and that
20 the benefits, including increased or maintained employment, improved
21 standard of living, ~~((and))~~ the employment of disadvantaged workers,
22 and development or expansion of business ownership by minorities and
23 women, will primarily accrue to residents of the area;

24 (d) Will probably be successful;

25 (e) Would probably not be completed without the loan because other
26 capital or financing at feasible terms is unavailable or the return on
27 investment is inadequate.

28 (2) The committee shall, subject to federal block grant criteria,
29 give higher priority to economic development projects that contain
30 provisions for child care.

31 (3) The committee may not approve an application if it fails to
32 provide for adequate reporting or disclosure of financial data to the
33 committee. The committee may require an annual or other periodic audit
34 of the project books.

35 (4) The committee may require that the project be managed in whole
36 or in part by a local development organization and may prescribe a
37 management fee to be paid to such organization by the recipient of the
38 loan or grant.

1 (5)(a) Except as provided in (b) of this subsection, the committee
2 shall not approve any application which would result in a loan or grant
3 in excess of three hundred fifty thousand dollars.

4 (b) The committee may approve an application which results in a
5 loan or grant of up to seven hundred thousand dollars if the
6 application has been approved by the director.

7 (6) The committee shall fix the terms and rates pertaining to its
8 loans.

9 (7) Should there be more demand for loans than funds available for
10 lending, the committee shall provide loans for those projects which
11 will lead to the greatest amount of employment or benefit to a
12 community. In determining the "greatest amount of employment or
13 benefit" the committee shall also consider the employment which would
14 be saved by its loan and the benefit relative to the community, not
15 just the total number of new jobs or jobs saved.

16 (8) To the extent permitted under federal law the committee shall
17 require applicants to provide for the transfer of all payments of
18 principal and interest on loans to the Washington state development
19 loan fund created under this chapter. Under circumstances where the
20 federal law does not permit the committee to require such transfer, the
21 committee shall give priority to applications where the applicants on
22 their own volition make commitments to provide for the transfer.

23 (9) The committee shall not approve any application to finance or
24 help finance a shopping mall.

25 (10) For loans not made to minority and women-owned businesses, the
26 committee shall make at least eighty percent of the appropriated funds
27 available to projects located in distressed areas, and may make up to
28 twenty percent available to projects located in areas not designated as
29 distressed. For loans not made to minority and women-owned businesses,
30 the committee shall not make funds available to projects located in
31 areas not designated as distressed if the fund's net worth is less than
32 seven million one hundred thousand dollars.

33 (11) If an objection is raised to a project on the basis of unfair
34 business competition, the committee shall evaluate the potential impact
35 of a project on similar businesses located in the local market area.
36 A grant may be denied by the committee if a project is not likely to
37 result in a net increase in employment within a local market area.

38 (12) For loans to minority and women-owned businesses who do not
39 meet the credit criteria, the committee may consider nontraditional

1 credit standards to offset past discrimination that has precluded full
2 participation of minority or women-owned businesses in the economy.
3 For applicants with high potential who do not meet the credit criteria,
4 the committee shall consider developing alternative borrowing methods.
5 For applicants denied loans due to credit problems, the committee shall
6 provide financial counseling within available resources and provide
7 referrals to credit rehabilitation services. In circumstances of
8 competing applications, priority shall be given to members of eligible
9 groups which previously have been least served by this fund.

10 NEW SECTION. Sec. 13. A new section is added to chapter 43.168
11 RCW to read as follows:

12 Subject to the restrictions contained in this chapter, the
13 committee is authorized to approve applications of minority and women-
14 owned businesses for loans or loan guarantees from the fund.
15 Applications approved by the committee under this chapter shall conform
16 to applicable federal requirements. The committee shall prioritize
17 available funds for loan guarantees rather than loans when possible.
18 The committee may enter into agreements with other public or private
19 lending institutions to develop a joint loan guarantee program for
20 minority and women-owned businesses. If such a program is developed,
21 the committee may provide funds, in conjunction with the other
22 organizations, to operate the program. This section does not preclude
23 the committee from making individual loan guarantees.

24 To the maximum extent practicable, the funds available under this
25 section shall be made available on an equal basis to minority and
26 women-owned businesses. The committee shall submit to the appropriate
27 committees of the senate and house of representatives quarterly reports
28 that detail the number of loans approved and the characteristics of the
29 recipients by ethnic and gender groups.

30 **Sec. 14.** RCW 43.168.070 and 1987 c 461 s 5 are each amended to
31 read as follows:

32 The committee may receive and approve applications on a monthly
33 basis but shall receive and approve applications on at least a
34 quarterly basis for each fiscal year. The committee shall make every
35 effort to simplify the loan process for applicants. Department staff
36 shall process and assist in the preparation of applications. Each
37 application shall show in detail the nature of the project, the types

1 and numbers of jobs to be created, wages to be paid to new employees,
2 and methods to hire unemployed persons from the area. Each application
3 shall contain a credit analysis of the business to receive the loan.
4 The chairperson of the committee may convene the committee on short
5 notice to respond to applications of a serious or immediate nature.

6 **Sec. 15.** RCW 43.168.100 and 1986 c 204 s 1 are each amended to
7 read as follows:

8 The committee may make grants of state funds to local governments
9 which qualify as "entitlement communities" under the federal law
10 authorizing community development block grants. These grants may only
11 be made on the condition that the entitlement community provide the
12 committee with assurances that it will: (1) Spend the grant moneys for
13 purposes and in a manner which satisfies state constitutional
14 requirements; (2) spend the grant moneys for purposes and in a manner
15 which would satisfy federal requirements; and (3) spend (~~double the~~)
16 at least the same amount of the grant for loans to businesses from the
17 federal funds received by the entitlement community.

18 IV. BONDING ASSISTANCE

19 NEW SECTION. **Sec. 16.** DEFINITIONS. Unless the context clearly
20 requires otherwise, the definitions in this section apply throughout
21 sections 17 through 26 of this act.

22 (1) "Approved surety company" means a surety company approved by
23 the department for participation in providing direct bonding assistance
24 to qualified contractors.

25 (2) "Bond" means any bond or security required for bid, payment, or
26 performance of contracts.

27 (3) "Department" means the department of trade and economic
28 development.

29 (4) "Program" means the Washington state small business bonding
30 assistance program provided for in this chapter.

31 (5) "Qualified contractor" means any resident minority business
32 enterprise or women's business enterprise, as determined by the
33 department to be consistent with the requirements of chapter 39.19 RCW
34 and engaged in the contracting business, which has obtained a
35 certificate of accreditation from the Washington state small business
36 bonding assistance program.

1 NEW SECTION. **Sec. 17.** PROGRAM ESTABLISHED. There is established
2 within the department of trade and economic development the Washington
3 state small business bonding assistance program to assist resident
4 minority and women-owned small contracting businesses to acquire the
5 managerial and financial skills, standards, and assistance necessary to
6 enable them to obtain bid, payment, and performance bonds from surety
7 companies for either advertised or designated contracts. The
8 department shall implement the program by establishing a course of
9 instruction as set forth in section 19 of this act. The department
10 shall encourage surety companies and other private interests to help
11 implement this course of instruction to assist minority and women-owned
12 small contracting businesses. The department shall adopt rules to
13 ensure the proper implementation of the program set forth in this
14 chapter.

15 NEW SECTION. **Sec. 18.** ASSISTANCE. The department shall seek
16 information, advice, and assistance from regional minority contractor
17 organizations, and the United States small business administration and
18 any other appropriate organization or agency.

19 The following departments, offices, and agencies shall, at the
20 request of the department, provide information, advice, and assistance
21 to the department:

- 22 (1) The department of general administration;
- 23 (2) The Washington state business assistance center;
- 24 (3) The office of the insurance commissioner;
- 25 (4) The Washington state economic development finance authority;
- 26 and
- 27 (5) The office of minority and women's business enterprises.

28 NEW SECTION. **Sec. 19.** SPECIALIZED INSTRUCTION FOR SMALL
29 CONTRACTING BUSINESSES. The business assistance center shall modify
30 the entrepreneurial training course established in section 6 of this
31 act in order to provide instruction which is appropriate to the
32 specific needs of contracting businesses. This course of instruction
33 shall be available to resident minority and women-owned small business
34 contractors. The instruction shall be intensive, practical training
35 courses in financing, bidding for contracts, managing, accounting, and
36 recordkeeping for a contracting business, with an emphasis on federal,
37 state, local, or private programs available to assist small

1 contractors. The business assistance center shall appoint professional
2 instructors, with practical knowledge and experience in the field of
3 small business contracting, to teach those courses developed to meet
4 the specific needs of contracting businesses. Instruction shall be
5 offered in major population centers throughout the state at times and
6 locations which are convenient for people in the contracting business.

7 NEW SECTION. **Sec. 20.** ACCREDITATION OF SMALL CONTRACTING
8 BUSINESSES. Any resident minority or women-owned small business
9 contractor may select a key management employee or employees to attend
10 any course of instruction established under section 6 of this act.
11 When the records, maintained by the business assistance center,
12 indicate that a key management employee of a small contracting business
13 has attended all the courses offered, and has successfully completed
14 any tests required, the department shall award the small contracting
15 business a certificate of accreditation which acknowledges successful
16 completion of the courses. The department may also award a certificate
17 of accreditation if a review of the key management employee's
18 education, experience, and business history indicates that the business
19 already possesses the knowledge and skills offered through the course
20 of instruction, or if the key management employee successfully
21 completes all tests required of those who attend the entrepreneurial
22 training course.

23 NEW SECTION. **Sec. 21.** PROFESSIONAL SERVICES ASSISTANCE--GRANTS.
24 Any qualified contractor seeking a grant for professional services
25 assistance may apply to the department. If approved, the department
26 may enter into an agreement to provide a grant of up to two thousand
27 five hundred dollars on behalf of a qualified contractor for the
28 acquisition of the professional services of certified public
29 accountants, construction management companies, or any other technical,
30 surety, financial, or managerial professionals. This assistance is
31 only available to a qualified contractor on a one-time basis.

32 NEW SECTION. **Sec. 22.** GRANT MONITORING. The department shall
33 administer all grants issued to assist qualified contractors and shall
34 monitor the performance of all grant recipients in order to provide
35 such further assistance as is necessary to ensure that all program
36 requirements are met and that the program's purpose is fulfilled.

1 However, nothing in this chapter should be construed to restrict the
2 rendering of program services to any qualified contractor over and
3 above the services provided by the grant.

4 NEW SECTION. **Sec. 23.** BOND GUARANTEE APPLICATIONS. If a
5 qualified contractor makes a bond application to an approved surety
6 company for a public or private contracting job, but fails to obtain
7 the bond because the contractor is unable to meet the requirements of
8 the surety company on such bonding contracts, for reasons other than
9 nonperformance, and if the approved surety company applies to the
10 department to have the bond guaranteed by the program, then the
11 department may provide a bond guarantee of up to seventy-five thousand
12 dollars on behalf of the qualified contractor.

13 NEW SECTION. **Sec. 24.** BOND GUARANTEE APPROVAL. Upon receipt of
14 an approved surety company's application for a bond guarantee, the
15 program supervisor shall review the application in order to verify
16 that:

- 17 (1) The bond being sought by the qualified contractor is needed;
18 (2) The contracting job is within the qualified contractor's
19 capability to perform; and
20 (3) The qualified contractor has not been denied a bond due to
21 nonperformance.

22 Based upon subsections (1) through (3) of this section, the
23 department shall either approve or disapprove the application. If the
24 application is approved, the department has the authority to enter into
25 a contract with the approved surety company. Under the terms of this
26 contract the approved surety company shall enter into a contract with,
27 and issue the required bond to, the qualified contractor at the
28 standard fees and charges usually made by the company for the type and
29 amount of the bond issued. The bond issued by the approved surety
30 company shall be guaranteed by money in the program fund. The approved
31 surety company shall also agree to make a reasonable, good faith effort
32 to pursue and collect any claims it may have against a qualified
33 contractor who defaults on a bond guaranteed by the program, including,
34 but not limited to, the institution of legal proceedings against the
35 defaulting contractor, prior to collecting on the guarantee.

1 NEW SECTION. **Sec. 25.** PROGRAM FUND ESTABLISHED. The Washington
2 state small business bonding assistance program fund is created in the
3 state treasury. Any amounts appropriated, donated, or granted to the
4 program shall be deposited and credited to the program fund. Moneys in
5 the program fund may be spent only after appropriation. Expenditures
6 from the program fund shall only be used as follows:

7 (1) To pay the implementation costs of the program provided for in
8 this chapter;

9 (2) To be disbursed by the department to enable qualified
10 contractors to obtain services provided for in this chapter; and

11 (3) To guarantee bonds issued pursuant to sections 23 and 24 of
12 this act and to pay such bonds in the event of default by a qualified
13 contractor.

14 However, the full faith and credit of the state of Washington shall
15 not be used to secure the bonds and the state's liability shall be
16 limited to the money appropriated by the legislature.

17 NEW SECTION. **Sec. 26.** FUND SUPPORT. The department shall solicit
18 funds and support from surety companies and other public and private
19 entities with an interest in assisting Washington's small business
20 contractors and may enter into agreements with such companies and
21 interests by which they provide funds to the program fund to be matched
22 with funds from nonstate sources.

23 NEW SECTION. **Sec. 27.** The department may receive gifts, grants,
24 and endowments from public or private sources that may be made from
25 time to time, in trust or otherwise, for the use and benefit of the
26 Washington state small business bonding assistance program and spend
27 gifts, grants, endowments or any income from the public or private
28 sources according to their terms.

29 NEW SECTION. **Sec. 28.** If specific funding for the purposes of
30 sections 16 through 27 of this act, referencing sections 16 through 27
31 of this act by bill and section numbers, is not provided by June 30,
32 1993, in the omnibus appropriations act, sections 16 through 27 of this
33 act are null and void.

34 **V. WASHINGTON STATE LINKED DEPOSIT PROGRAM**

1 NEW SECTION. **Sec. 29.** The legislature finds that minority and
2 women's business enterprises have been historically excluded from
3 access to capital in the marketplace. The lack of capital has been a
4 major barrier to the development and expansion of business by various
5 minority groups and women. There has been a significant amount of
6 attention on the capital needs of minority and women's business
7 enterprises. It is the intent of the legislature to remedy the problem
8 of a lack of access to capital by minority and women's business
9 enterprises, and other small businesses by authorizing the state
10 treasurer to operate a program that links state deposits to business
11 loans by financial institutions to minority and women's business
12 enterprises.

13 NEW SECTION. **Sec. 30.** A new section is added to chapter 43.86A
14 RCW to read as follows:

15 (1) The state treasurer shall establish a linked deposit program
16 for investment of deposits in qualified public depositories. As a
17 condition of participating in the program, qualified public
18 depositories must make qualifying loans as provided in this section.
19 Each time certificate of deposit purchased by the state treasurer shall
20 be equal to the amount of the qualifying loan made by the qualified
21 public depository. The state treasurer is authorized to set interest
22 rates on certificates and on qualifying loans consistent with the
23 intent of sections 29 through 33, chapter . . ., Laws of 1993 (sections
24 29 through 33 of this act) and sound financial practices.

25 (2) Qualifying loans made under this section are those that:

26 (a) Are loans that have terms that do not exceed five years;

27 (b) Are made to a minority or women's business enterprise that has
28 received state certification under chapter 39.19 RCW;

29 (c) Are made to minority or women's business enterprises that are
30 considered a small business as defined in RCW 43.31.025;

31 (d) Are made where the interest rate on the loan to the minority or
32 women's business enterprise does not exceed the interest rate on the
33 corresponding time certificate of deposit by two hundred fifty basis
34 points;

35 (e) Are made where the points or fees charged at loan closing do
36 not exceed one percent of the loan amount; and

37 (f) Are consistent with other criteria set by the state treasurer.

1 (3) In setting interest rates of time certificate of deposits, the
2 state treasurer shall offer rates so that a two hundred basis point
3 preference will be given to the qualified public depository.

4 NEW SECTION. **Sec. 31.** A new section is added to chapter 43.63A
5 RCW to read as follows:

6 (1) The department shall provide technical assistance and loan
7 packaging services that enable minority and women-owned business
8 enterprises to obtain financing under the linked deposit program
9 created under section 30 of this act.

10 (2) The department shall, in consultation with the state treasurer,
11 monitor the performance of loans made to minority and women-owned
12 business enterprises under section 30 of this act.

13 **Sec. 32.** RCW 43.85.230 and 1984 c 177 s 20 are each amended to
14 read as follows:

15 The state treasurer may deposit moneys not required to meet current
16 demands upon a term deposit basis not to exceed (~~one year~~) five years
17 at such interest rates and upon such conditions as to withdrawals of
18 such moneys as may be agreed upon between the state treasurer and any
19 qualified public depository.

20 **Sec. 33.** RCW 43.86A.030 and 1982 c 74 s 1 are each amended to read
21 as follows:

22 (1) Funds held in public depositories not as demand deposits as
23 provided in RCW 43.86A.020 and 43.86A.030, shall be available for a
24 time certificate of deposit investment program according to the
25 following formula: The state treasurer shall apportion to all
26 participating depositories an amount equal to five percent of the three
27 year average mean of general state revenues as certified in accordance
28 with Article VIII, section 1(b) of the state Constitution, or fifty
29 percent of the total surplus treasury investment availability,
30 whichever is less. Within thirty days after certification, those funds
31 determined to be available according to this formula for the time
32 certificate of deposit investment program shall be deposited in
33 qualified public depositories. These deposits shall be allocated among
34 the participating depositories on a basis to be determined by the state
35 treasurer.

1 (2) The state treasurer may use up to fifty million dollars per
2 year of all funds available under this section for the purposes of
3 section 30 of this act. The amounts made available to these public
4 depositories shall be equal to the amounts of outstanding loans made
5 under section 30 of this act.

6 (3) The formula so devised shall be a matter of public record
7 giving consideration to, but not limited to deposits, assets, loans,
8 capital structure, investments or some combination of these factors((+
9 ~~PROVIDED, That~~)). However, if in the judgment of the state treasurer
10 the amount of allocation for certificates of deposit as determined by
11 this section will impair the cash flow needs of the state treasury, the
12 state treasurer may adjust the amount of the allocation accordingly.

13 NEW SECTION. Sec. 34. A new section is added to chapter 43.86A
14 RCW to read as follows:

15 The state and those acting as its agents are not liable in any
16 manner for payment of the principal or interest on qualifying loans
17 made under section 30 of this act. Any delay in payments or defaults
18 on the part of the borrower does not in any manner affect the deposit
19 agreement between the qualified public depository and the state
20 treasurer.

21 NEW SECTION. Sec. 35. A new section is added to chapter 43.131
22 RCW to read as follows:

23 The linked deposit program shall be terminated on June 30, 1996, as
24 provided in section 36 of this act.

25 NEW SECTION. Sec. 36. A new section is added to chapter 43.131
26 RCW to read as follows:

27 The following acts or parts of acts, as now existing or hereafter
28 amended, are each repealed, effective June 30, 1997:

- 29 (1) Section 30 of this act;
30 (2) Section 31 of this act; and
31 (3) Section 34 of this act.

32 NEW SECTION. Sec. 37. If specific funding for the purposes of
33 sections 29 through 36 of this act, referencing sections 29 through 36
34 of this act by bill and section numbers, is not provided by June 30,

1 1993, in the omnibus appropriations act, sections 29 through 36 of this
2 act are null and void.

3 VI. MISCELLANEOUS

4 NEW SECTION. **Sec. 38.** This act may be known and cited as the
5 omnibus minority and women-owned businesses assistance act.

6 NEW SECTION. **Sec. 39.** Sections 1, 2, and 16 through 27 of this
7 act shall constitute a new chapter in Title 43 RCW.

8 NEW SECTION. **Sec. 40.** CAPTIONS NOT LAW. Part headings and
9 section captions as used in this act do not constitute part of the law.

10 NEW SECTION. **Sec. 41.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 42.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect July 1, 1993."

18 **ESHB 1493** - S COMM AMD (S2789.4)

19 By Committee on Trade, Technology & Economic Development

20 ADOPTED AS AMENDED BY WM (S3134.1) AND 000841; 4/16/93

21 On page 1, line 1 of the title, after "businesses;" strike the
22 remainder of the title and insert "amending RCW 43.31.085, 43.31.055,
23 39.19.060, 43.168.030, 43.168.050, 43.168.070, 43.168.100, 43.85.230,
24 and 43.86A.030; adding a new section to chapter 43.210 RCW; adding new
25 sections to chapter 43.31 RCW; adding a new section to chapter 39.19
26 RCW; adding a new section to chapter 43.168 RCW; adding new sections to
27 chapter 43.86A RCW; adding a new section to chapter 43.63A RCW; adding
28 new sections to chapter 43.131 RCW; adding a new chapter to Title 43
29 RCW; creating new sections; providing an effective date; and declaring
30 an emergency."

--- END ---