

2 **ESHB 1493** - S COMM AMD

3 By Committee on Trade, Technology & Economic Development

4 ADOPTED W/WM (S3134.1) & 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.** If specific funding for the purposes of
25 sections 5 and 6 of this act, referencing sections 5 and 6 of this act
26 by bill and section numbers, is not provided by June 30, 1993, in the
27 omnibus appropriations act, sections 5 and 6 of this act are null and
28 void.

29 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

30 **Sec. 8.** RCW 39.19.060 and 1983 c 120 s 6 are each amended to read
31 as follows:

32 Each state agency and educational institution shall comply with the
33 annual goals established for that agency or institution under this
34 chapter for public works and procuring goods or services. This chapter
35 applies to all public works and procurement by state agencies and

1 educational institutions, including all contracts and other procurement
2 under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state
3 agency shall adopt a plan, developed in consultation with the director
4 and the advisory committee, to insure that minority and women-owned
5 businesses are afforded the maximum practicable opportunity to directly
6 and meaningfully participate in the execution of public contracts for
7 public works and goods and services. The plan shall include specific
8 measures the agency will undertake to increase the participation of
9 certified minority and women-owned businesses. The office shall
10 annually notify the governor, the state auditor, and the legislative
11 budget committee of all agencies and educational institutions not in
12 compliance with this chapter.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 39.19 RCW
14 to read as follows:

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

20 (2) A limited prequalification questionnaire shall be required
21 assuring:

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

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

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

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

29 III. LOAN FUND AND GUARANTEES

30 **Sec. 10.** RCW 43.168.030 and 1985 c 164 s 3 are each amended to
31 read as follows:

32 (1) The Washington state development loan fund committee is
33 established as an entity within the department of community
34 development. The committee shall have ((seven)) eight members. The
35 director shall appoint the members, subject to the following
36 requirements: (a) Three members shall be experienced in investment

1 finance and have skills in providing capital to new and innovative
2 businesses, in starting and operating businesses and providing
3 professional services to small or expanding businesses; (b) two members
4 shall be residents of distressed areas; (c) one member shall represent
5 organized labor; ~~((and))~~ (d) one member shall represent a minority
6 business; and (e) one member shall represent a women-owned business.
7 Careful consideration in making these appointments shall be taken to
8 ensure that the various geographic regions of the state are
9 represented, that members will be available for meetings on a regular
10 basis, and will have a commitment to working with local governments and
11 local development organizations.

12 (2) Each member appointed by the director shall serve a term of
13 three years, except that of the members first appointed, two shall
14 serve two-year terms and two shall serve one-year terms. A person
15 appointed to fill a vacancy of a member shall be appointed in a like
16 manner and shall serve for only the unexpired term. A member is
17 eligible for reappointment. A member may be removed by the director
18 only for cause.

19 (3) The director shall designate a member of the board as its
20 chairperson. The committee may elect such other officers as it deems
21 appropriate. ~~((Four))~~ Five members of the committee constitute a
22 quorum and ~~((four))~~ five affirmative votes are necessary for the
23 transaction of business or the exercise of any power or function of the
24 committee.

25 (4) The members of the committee shall serve without compensation,
26 but are entitled to reimbursement for actual and necessary expenses
27 incurred in the performance of official duties in accordance with RCW
28 43.03.050 and 43.03.060.

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

35 **Sec. 11.** RCW 43.168.050 and 1990 1st ex.s. c 17 s 74 are each
36 amended to read as follows:

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

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

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

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

12 (d) Will probably be successful;

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

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

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

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

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

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

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

35 (7) Should there be more demand for loans than funds available for
36 lending, the committee shall provide loans for those projects which
37 will lead to the greatest amount of employment or benefit to a
38 community. In determining the "greatest amount of employment or
39 benefit" the committee shall also consider the employment which would

1 be saved by its loan and the benefit relative to the community, not
2 just the total number of new jobs or jobs saved.

3 (8) To the extent permitted under federal law the committee shall
4 require applicants to provide for the transfer of all payments of
5 principal and interest on loans to the Washington state development
6 loan fund created under this chapter. Under circumstances where the
7 federal law does not permit the committee to require such transfer, the
8 committee shall give priority to applications where the applicants on
9 their own volition make commitments to provide for the transfer.

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

12 (10) For loans not made to minority and women-owned businesses, the
13 committee shall make at least eighty percent of the appropriated funds
14 available to projects located in distressed areas, and may make up to
15 twenty percent available to projects located in areas not designated as
16 distressed. For loans not made to minority and women-owned businesses,
17 the committee shall not make funds available to projects located in
18 areas not designated as distressed if the fund's net worth is less than
19 seven million one hundred thousand dollars.

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

25 (12) For loans to minority and women-owned businesses who do not
26 meet the credit criteria, the committee may consider nontraditional
27 credit standards to offset past discrimination that has precluded full
28 participation of minority or women-owned businesses in the economy.
29 For applicants with high potential who do not meet the credit criteria,
30 the committee shall consider developing alternative borrowing methods.
31 For applicants denied loans due to credit problems, the committee shall
32 provide financial counseling within available resources and provide
33 referrals to credit rehabilitation services. In circumstances of
34 competing applications, priority shall be given to members of eligible
35 groups which previously have been least served by this fund.

36 NEW SECTION. Sec. 12. A new section is added to chapter 43.168
37 RCW to read as follows:

1 Subject to the restrictions contained in this chapter, the
2 committee is authorized to approve applications of minority and women-
3 owned businesses for loans or loan guarantees from the fund.
4 Applications approved by the committee under this chapter shall conform
5 to applicable federal requirements. The committee shall prioritize
6 available funds for loan guarantees rather than loans when possible.
7 The committee may enter into agreements with other public or private
8 lending institutions to develop a joint loan guarantee program for
9 minority and women-owned businesses. If such a program is developed,
10 the committee may provide funds, in conjunction with the other
11 organizations, to operate the program. This section does not preclude
12 the committee from making individual loan guarantees.

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

19 **Sec. 13.** RCW 43.168.070 and 1987 c 461 s 5 are each amended to
20 read as follows:

21 The committee may receive and approve applications on a monthly
22 basis but shall receive and approve applications on at least a
23 quarterly basis for each fiscal year. The committee shall make every
24 effort to simplify the loan process for applicants. Department staff
25 shall process and assist in the preparation of applications. Each
26 application shall show in detail the nature of the project, the types
27 and numbers of jobs to be created, wages to be paid to new employees,
28 and methods to hire unemployed persons from the area. Each application
29 shall contain a credit analysis of the business to receive the loan.
30 The chairperson of the committee may convene the committee on short
31 notice to respond to applications of a serious or immediate nature.

32 **Sec. 14.** RCW 43.168.100 and 1986 c 204 s 1 are each amended to
33 read as follows:

34 The committee may make grants of state funds to local governments
35 which qualify as "entitlement communities" under the federal law
36 authorizing community development block grants. These grants may only
37 be made on the condition that the entitlement community provide the

1 committee with assurances that it will: (1) Spend the grant moneys for
2 purposes and in a manner which satisfies state constitutional
3 requirements; (2) spend the grant moneys for purposes and in a manner
4 which would satisfy federal requirements; and (3) spend (~~double the~~)
5 at least the same amount of the grant for loans to businesses from the
6 federal funds received by the entitlement community.

7 IV. BONDING ASSISTANCE

8 NEW SECTION. **Sec. 15.** DEFINITIONS. Unless the context clearly
9 requires otherwise, the definitions in this section apply throughout
10 sections 16 through 25 of this act.

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

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

16 (3) "Department" means the department of trade and economic
17 development.

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

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

26 NEW SECTION. **Sec. 16.** PROGRAM ESTABLISHED. There is established
27 within the department of trade and economic development the Washington
28 state small business bonding assistance program to assist resident
29 minority and women-owned small contracting businesses to acquire the
30 managerial and financial skills, standards, and assistance necessary to
31 enable them to obtain bid, payment, and performance bonds from surety
32 companies for either advertised or designated contracts. The
33 department shall implement the program by establishing a course of
34 instruction as set forth in section 18 of this act. The department
35 shall encourage surety companies and other private interests to help
36 implement this course of instruction to assist minority and women-owned

1 small contracting businesses. The department shall adopt rules to
2 ensure the proper implementation of the program set forth in this
3 chapter.

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

8 The following departments, offices, and agencies shall, at the
9 request of the department, provide information, advice, and assistance
10 to the department:

- 11 (1) The department of general administration;
- 12 (2) The Washington state business assistance center;
- 13 (3) The office of the insurance commissioner;
- 14 (4) The Washington state economic development finance authority;
- 15 and
- 16 (5) The office of minority and women's business enterprises.

17 NEW SECTION. **Sec. 18.** SPECIALIZED INSTRUCTION FOR SMALL
18 CONTRACTING BUSINESSES. The business assistance center shall modify
19 the entrepreneurial training course established in section 6 of this
20 act in order to provide instruction which is appropriate to the
21 specific needs of contracting businesses. This course of instruction
22 shall be available to resident minority and women-owned small business
23 contractors. The instruction shall be intensive, practical training
24 courses in financing, bidding for contracts, managing, accounting, and
25 recordkeeping for a contracting business, with an emphasis on federal,
26 state, local, or private programs available to assist small
27 contractors. The business assistance center shall appoint professional
28 instructors, with practical knowledge and experience in the field of
29 small business contracting, to teach those courses developed to meet
30 the specific needs of contracting businesses. Instruction shall be
31 offered in major population centers throughout the state at times and
32 locations which are convenient for people in the contracting business.

33 NEW SECTION. **Sec. 19.** ACCREDITATION OF SMALL CONTRACTING
34 BUSINESSES. Any resident minority or women-owned small business
35 contractor may select a key management employee or employees to attend
36 any course of instruction established under section 6 of this act.

1 When the records, maintained by the business assistance center,
2 indicate that a key management employee of a small contracting business
3 has attended all the courses offered, and has successfully completed
4 any tests required, the department shall award the small contracting
5 business a certificate of accreditation which acknowledges successful
6 completion of the courses. The department may also award a certificate
7 of accreditation if a review of the key management employee's
8 education, experience, and business history indicates that the business
9 already possesses the knowledge and skills offered through the course
10 of instruction, or if the key management employee successfully
11 completes all tests required of those who attend the entrepreneurial
12 training course.

13 NEW SECTION. **Sec. 20.** PROFESSIONAL SERVICES ASSISTANCE--GRANTS.
14 Any qualified contractor seeking a grant for professional services
15 assistance may apply to the department. If approved, the department
16 may enter into an agreement to provide a grant of up to two thousand
17 five hundred dollars on behalf of a qualified contractor for the
18 acquisition of the professional services of certified public
19 accountants, construction management companies, or any other technical,
20 surety, financial, or managerial professionals. This assistance is
21 only available to a qualified contractor on a one-time basis.

22 NEW SECTION. **Sec. 21.** GRANT MONITORING. The department shall
23 administer all grants issued to assist qualified contractors and shall
24 monitor the performance of all grant recipients in order to provide
25 such further assistance as is necessary to ensure that all program
26 requirements are met and that the program's purpose is fulfilled.
27 However, nothing in this chapter should be construed to restrict the
28 rendering of program services to any qualified contractor over and
29 above the services provided by the grant.

30 NEW SECTION. **Sec. 22.** BOND GUARANTEE APPLICATIONS. If a
31 qualified contractor makes a bond application to an approved surety
32 company for a public or private contracting job, but fails to obtain
33 the bond because the contractor is unable to meet the requirements of
34 the surety company on such bonding contracts, for reasons other than
35 nonperformance, and if the approved surety company applies to the
36 department to have the bond guaranteed by the program, then the

1 department may provide a bond guarantee of up to seventy-five thousand
2 dollars on behalf of the qualified contractor.

3 NEW SECTION. **Sec. 23.** BOND GUARANTEE APPROVAL. Upon receipt of
4 an approved surety company's application for a bond guarantee, the
5 program supervisor shall review the application in order to verify
6 that:

7 (1) The bond being sought by the qualified contractor is needed;

8 (2) The contracting job is within the qualified contractor's
9 capability to perform; and

10 (3) The qualified contractor has not been denied a bond due to
11 nonperformance.

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

26 NEW SECTION. **Sec. 24.** PROGRAM FUND ESTABLISHED. The Washington
27 state small business bonding assistance program fund is created in the
28 state treasury. Any amounts appropriated, donated, or granted to the
29 program shall be deposited and credited to the program fund. Moneys in
30 the program fund may be spent only after appropriation. Expenditures
31 from the program fund shall only be used as follows:

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

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

1 (3) To guarantee bonds issued pursuant to sections 22 and 23 of
2 this act and to pay such bonds in the event of default by a qualified
3 contractor.

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

7 NEW SECTION. **Sec. 25.** FUND SUPPORT. The department shall solicit
8 funds and support from surety companies and other public and private
9 entities with an interest in assisting Washington's small business
10 contractors and may enter into agreements with such companies and
11 interests by which they provide funds to the program fund to be matched
12 with funds from nonstate sources.

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

19 NEW SECTION. **Sec. 27.** If specific funding for the purposes of
20 sections 15 through 26 of this act, referencing sections 15 through 26
21 of this act by bill and section numbers, is not provided by June 30,
22 1993, in the omnibus appropriations act, sections 15 through 26 of this
23 act are null and void.

24 V. LINKED DEPOSITS

25 **Sec. 28.** RCW 39.19.030 and 1989 c 175 s 85 are each amended to
26 read as follows:

27 There is hereby created the office of minority and women's business
28 enterprises. The governor shall appoint a director for the office,
29 subject to confirmation by the senate. The director may employ a
30 deputy director and a confidential secretary, both of which shall be
31 exempt under chapter 41.06 RCW, and such staff as are necessary to
32 carry out the purposes of this chapter.

33 The office shall consult with the minority and women's business
34 enterprises advisory committee to:

1 (1) Develop, plan, and implement programs to provide an opportunity
2 for participation by qualified minority and women-owned and controlled
3 businesses in public works and the process by which goods and services
4 are procured by state agencies and educational institutions from the
5 private sector;

6 (2) Develop a comprehensive plan insuring that qualified minority
7 and women-owned and controlled businesses are provided an opportunity
8 to participate in public contracts for public works and goods and
9 services;

10 (3) Identify barriers to equal participation by qualified minority
11 and women-owned and controlled businesses in all state agency and
12 educational institution contracts;

13 (4) Establish annual overall goals for participation by qualified
14 minority and women-owned and controlled businesses for each state
15 agency and educational institution to be administered on a contract-by-
16 contract basis or on a class-of-contracts basis;

17 (5) Develop and maintain a central minority and women's business
18 enterprise certification list for all state agencies and educational
19 institutions. No business is entitled to certification under this
20 chapter unless it meets the definition of small business concern as
21 established by the office. All applications for certification under
22 this chapter shall be sworn under oath;

23 (6) Develop, implement, and operate a system of monitoring
24 compliance with this chapter;

25 (7) Adopt rules under chapter 34.05 RCW, the Administrative
26 Procedure Act, governing: (a) Establishment of agency goals; (b)
27 development and maintenance of a central minority and women's business
28 enterprise certification program, including a definition of "small
29 business concern" which shall be consistent with the small business
30 requirements defined under section 3 of the Small Business Act, 15
31 U.S.C. Sec. 632, and its implementing regulations as guidance; (c)
32 procedures for monitoring and enforcing compliance with goals,
33 regulations, contract provisions, and this chapter; and (d) utilization
34 of standard clauses by state agencies and educational institutions, as
35 specified in RCW 39.19.050;

36 (8) Develop and implement, in consultation with the supervisor of
37 the division of banking, a system of monitoring minority and women's
38 business enterprises' access to capital and rating as satisfactory or
39 unsatisfactory the performance of each of the state's public

1 depositories in lending money for minority and women's business
2 enterprises;

3 (9) Submit an annual report to the governor and the legislature
4 outlining the progress in implementing this chapter;

5 ~~((+9))~~ (10) Investigate complaints of violations of this chapter
6 with the assistance of the involved agency or educational institution;
7 and

8 ~~((+10))~~ (11) Cooperate and act jointly or by division of labor
9 with the United States or other states, and with political subdivisions
10 of the state of Washington and their respective minority, socially and
11 economically disadvantaged and women business enterprise programs to
12 carry out the purposes of this chapter. However, the power which may
13 be exercised by the office under this subsection permits investigation
14 and imposition of sanctions only if the investigation relates to a
15 possible violation of chapter 39.19 RCW, and not to violation of local
16 ordinances, rules, regulations, however denominated, adopted by
17 political subdivisions of the state.

18 **Sec. 29.** RCW 43.85.230 and 1984 c 177 s 20 are each amended to
19 read as follows:

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

25 **Sec. 30.** RCW 43.86A.030 and 1982 c 74 s 1 are each amended to read
26 as follows:

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

1 qualified public depositaries. These deposits shall be allocated among
2 the participating depositaries on a basis to be determined by the state
3 treasurer. Effective July 1, 1994, deposits shall be made only in
4 those otherwise qualified public depositaries which have received a
5 satisfactory rating from the office of minority and women's business
6 enterprises under RCW 39.19.030(8). The formula so devised shall be a
7 matter of public record giving consideration to, but not limited to
8 deposits, assets, loans, capital structure, investments or some
9 combination of these factors: PROVIDED, That, if in the judgment of
10 the state treasurer the amount of allocation for certificates of
11 deposit as determined by this section will impair the cash flow needs
12 of the state treasury, the state treasurer may adjust the amount of the
13 allocation accordingly.

14 VI. MISCELLANEOUS

15 NEW SECTION. **Sec. 31.** This act may be known and cited as the
16 omnibus minority and women-owned businesses assistance act.

17 NEW SECTION. **Sec. 32.** Sections 1, 2, and 15 through 26 of this
18 act shall constitute a new chapter in Title 43 RCW.

19 NEW SECTION. **Sec. 33.** CAPTIONS NOT LAW. Part headings and
20 section captions as used in this act do not constitute part of the law.

21 NEW SECTION. **Sec. 34.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 35.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and shall take
28 effect July 1, 1993."

1 **ESHB 1493** - S COMM AMD
2 By Committee on Trade, Technology & Economic Development

3

4 On page 1, line 1 of the title, after "businesses;" strike the
5 remainder of the title and insert "amending RCW 43.31.085, 43.31.055,
6 39.19.060, 43.168.030, 43.168.050, 43.168.070, 43.168.100, 39.19.030,
7 43.85.230, and 43.63A.030; adding a new section to chapter 43.210 RCW;
8 adding a new section to chapter 43.31 RCW; adding a new section to
9 chapter 39.19 RCW; adding a new section to chapter 43.168 RCW; adding
10 new sections to chapter 43.131 RCW; adding a new chapter to Title 43
11 RCW; creating new sections; providing an effective date; and declaring
12 an emergency."

--- END ---