

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1493

Chapter 512, Laws of 1993
(partial veto)

53rd Legislature
1993 Regular Session

MINORITY AND WOMEN-OWNED BUSINESSES--REVISED PROVISIONS
RELATING TO

EFFECTIVE DATE: 7/1/93

Passed by the House April 25, 1993
Yeas 92 Nays 6

BRIAN EBERSOLE
**Speaker of the
House of Representatives**

Passed by the Senate April 24, 1993
Yeas 39 Nays 4

R. LORRAINE WOJAHN
President of the Senate

Approved May 18, 1993, with the
exception of sections 8, 28, and 37,
which are vetoed.

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the
House of Representatives of the State
of Washington, do hereby certify that
the attached is **ENGROSSED SUBSTITUTE
HOUSE BILL 1493** as passed by the House
of Representatives and the Senate on
the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 18, 1993 - 2:43 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1493

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on Trade, Economic Development & Housing (originally sponsored by Representatives Wineberry, Forner, Shin, Sheldon, Leonard, Basich, Locke, J. Kohl, Morris and Anderson)

Read first time 03/03/93.

1 AN ACT Relating to minority and women-owned businesses; amending
2 RCW 43.31.085, 43.31.055, 39.19.060, 43.168.030, 43.168.050,
3 43.168.070, 43.168.100, 43.85.230, and 43.86A.030; adding a new section
4 to chapter 43.210 RCW; adding new sections to chapter 43.31 RCW; adding
5 a new section to chapter 39.19 RCW; adding a new section to chapter
6 43.168 RCW; adding new sections to chapter 43.86A RCW; adding a new
7 section to chapter 43.63A RCW; adding new sections to chapter 43.131
8 RCW; adding a new chapter to Title 43 RCW; creating new sections;
9 providing an effective date; and declaring an emergency.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 NEW SECTION. **Sec. 1.** INTENT. It is the intent of the legislature
12 to combat discrimination in the economy.

13 (1) The legislature finds that discrimination is in part
14 responsible for:

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

17 (b) The limited and unequal opportunity minority and women
18 entrepreneurs and business owners have to procure small business
19 financing; and

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

3 (2) The legislature further finds that:

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

8 (b) Minorities and women are an increasingly expanding portion of
9 the population and work force. In order for these individuals to fully
10 contribute to the society and economy it is necessary to ensure that
11 minority and women entrepreneurs and business owners are provided an
12 equal opportunity to procure small business financing, bonds, and
13 contracts; and

14 (c) The growth of small businesses will have a favorable impact on
15 the Washington economy by creating jobs, increasing competition in the
16 marketplace, and expanding tax revenues. Access to financial markets,
17 bonds, and contracts by entrepreneurs and small business owners is
18 vital to this process. Without reasonable access to financing, bonds,
19 and contracts, talented and aggressive entrepreneurs and small business
20 owners are cut out of the economic system and the state's economy
21 suffers.

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

30 (a) Develop or contract for training courses in financing,
31 marketing, managing, accounting, and recordkeeping for a small business
32 and to make these programs available to minority and women
33 entrepreneurs and small business owners;

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

37 (c) Provide for the lending of nonstate funds to qualified minority
38 and women entrepreneurs and business owners in order to provide the
39 maximum practicable opportunity for innovative minority and women

1 entrepreneurs and business owners to compete for small business
2 financing; and

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

8 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
9 requires otherwise, the definitions in this section apply throughout
10 this chapter.

11 (1) "Minority" means persons of color, including African-Americans,
12 Hispanic/Latino Americans, Native Americans, and Asian/Pacific
13 Islanders Americans;

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

18 **I. EDUCATION AND TECHNICAL ASSISTANCE**

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

21 **MARKETING, FINANCE, AND MANAGEMENT ASSISTANCE.** The business
22 assistance center shall:

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

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

26 (3) Provide comprehensive referral services to businesses requiring
27 government assistance.

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

31 (5) Aggressively promote business awareness of the state's business
32 programs and distribute information on the services available to
33 businesses.

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

1 (7) (~~The business assistance center shall~~) Work with other
2 federal, state, and local agencies and organizations to ensure that
3 business assistance services including small business, trade services,
4 and distressed area programs are provided in a coordinated and cost-
5 effective manner.

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

10 (9) In collaboration with the child care coordinating committee in
11 the department of social and health services, prepare and disseminate
12 information on child care options for employers and the existence of
13 the program. As much as possible, and through interagency agreements
14 where necessary, such information should be included in the routine
15 communications to employers from (a) the department of revenue, (b) the
16 department of labor and industries, (c) the department of community
17 development, (d) the employment security department, (e) the department
18 of trade and economic development, (f) the small business development
19 center, and (g) the department of social and health services.

20 (~~(9)~~) (10) In collaboration with the child care coordinating
21 committee in the department of social and health services, compile
22 information on and facilitate employer access to individuals, firms,
23 organizations, and agencies that provide technical assistance to
24 employers to enable them to develop and support child care services or
25 facilities.

26 (~~(10)~~) (11) Actively seek public and private money to support the
27 child care facility fund described in RCW 43.31.502, staff and assist
28 the child care facility fund committee as described in RCW 43.31.504,
29 and work to promote applications to the committee for loan guarantees,
30 loans, and grants.

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

33 EXPORT ASSISTANCE. The department shall assist in expanding the
34 state's role as a major international gateway for landing and
35 transshipping goods bound for domestic and foreign markets. The
36 department shall identify and work with Washington businesses,
37 especially minority and women-owned businesses and ethnic community-
38 based organizations, which can utilize state assistance to increase

1 domestic and foreign exports and are capable of increasing production
2 of goods and services, including but not limited to manufactured goods,
3 raw materials, services, and retail trade. The department shall
4 participate in trade and industry exhibitions both foreign and domestic
5 to promote and market state products and services. The department's
6 activities shall include, but not be limited to:

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

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

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

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

16 (5) Identifying domestic and international markets in which
17 minority and women-owned businesses may have an advantage and providing
18 technical assistance to develop capacity for minority and women-owned
19 businesses to participate in international trade.

20 NEW SECTION. Sec. 5. A new section is added to chapter 43.210 RCW
21 to read as follows:

22 The small business export finance assistance center shall develop
23 a minority business export outreach program. The program shall provide
24 outreach services to minority-owned businesses in Washington to inform
25 them of the importance of and opportunities in international trade, and
26 to inform them of the export assistance programs available to assist
27 these businesses to become exporters.

28 NEW SECTION. Sec. 6. A new section is added to chapter 43.31 RCW
29 to read as follows:

30 ENTREPRENEURIAL TRAINING COURSES. The department of trade and
31 economic development shall contract with public and private agencies,
32 institutions, and organizations to conduct entrepreneurial training
33 courses for minority and women-owned small businesses. The instruction
34 shall be intensive, practical training courses in financing, marketing,
35 managing, accounting, and recordkeeping for a small business, with an
36 emphasis on federal, state, local, or private programs available to
37 assist small businesses. The business assistance center may recommend

1 professional instructors, with practical knowledge and experience on
2 how to start and operate a business, to teach the courses. Instruction
3 shall be offered in major population centers throughout the state at
4 times and locations which are convenient for minority and women small
5 business owners and entrepreneurs.

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

8 BUSINESS ASSISTANCE CENTER MINORITY AND WOMEN BUSINESS DEVELOPMENT
9 OFFICE. There is established within the department's business
10 assistance center the minority and women business development office.
11 This office shall provide business-related assistance to minorities and
12 women as well as serve as an outreach program to increase minority and
13 women-owned businesses' awareness and use of existing business
14 assistance services.

15 ****NEW SECTION. Sec. 8. If specific funding for the purposes of***
16 ***sections 5 and 6 of this act, referencing sections 5 and 6 of this act***
17 ***by bill and section numbers, is not provided by June 30, 1993, in the***
18 ***omnibus appropriations act, sections 5 and 6 of this act are null and***
19 ***void.***

20 **Sec. 8 was vetoed, see message at end of chapter.*

21 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

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

24 Each state agency and educational institution shall comply with the
25 annual goals established for that agency or institution under this
26 chapter for public works and procuring goods or services. This chapter
27 applies to all public works and procurement by state agencies and
28 educational institutions, including all contracts and other procurement
29 under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state
30 agency shall adopt a plan, developed in consultation with the director
31 and the advisory committee, to insure that minority and women-owned
32 businesses are afforded the maximum practicable opportunity to directly
33 and meaningfully participate in the execution of public contracts for
34 public works and goods and services. The plan shall include specific
35 measures the agency will undertake to increase the participation of

1 certified minority and women-owned businesses. The office shall
2 annually notify the governor, the state auditor, and the legislative
3 budget committee of all agencies and educational institutions not in
4 compliance with this chapter.

5 NEW SECTION. Sec. 10. A new section is added to chapter 39.19 RCW
6 to read as follows:

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

12 (2) A limited prequalification questionnaire shall be required
13 assuring:

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

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

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

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

21 III. LOAN FUND AND GUARANTEES

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

24 (1) The Washington state development loan fund committee is
25 established as an entity within the department of community
26 development. The committee shall have (~~seven~~) eight members. The
27 director shall appoint the members, subject to the following
28 requirements: (a) Three members shall be experienced in investment
29 finance and have skills in providing capital to new and innovative
30 businesses, in starting and operating businesses and providing
31 professional services to small or expanding businesses; (b) two members
32 shall be residents of distressed areas; (c) one member shall represent
33 organized labor; (~~and~~) (d) one member shall represent a minority
34 business; and (e) one member shall represent a women-owned business.

35 Careful consideration in making these appointments shall be taken to
36 ensure that the various geographic regions of the state are

1 represented, that members will be available for meetings on a regular
2 basis, and will have a commitment to working with local governments and
3 local development organizations.

4 (2) Each member appointed by the director shall serve a term of
5 three years, except that of the members first appointed, two shall
6 serve two-year terms and two shall serve one-year terms. A person
7 appointed to fill a vacancy of a member shall be appointed in a like
8 manner and shall serve for only the unexpired term. A member is
9 eligible for reappointment. A member may be removed by the director
10 only for cause.

11 (3) The director shall designate a member of the board as its
12 chairperson. The committee may elect such other officers as it deems
13 appropriate. ((Four)) Five members of the committee constitute a
14 quorum and ((four)) five affirmative votes are necessary for the
15 transaction of business or the exercise of any power or function of the
16 committee.

17 (4) The members of the committee shall serve without compensation,
18 but are entitled to reimbursement for actual and necessary expenses
19 incurred in the performance of official duties in accordance with RCW
20 43.03.050 and 43.03.060.

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

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

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

31 (a) Will result in the creation of employment opportunities ((or)),
32 the maintenance of threatened employment, or development or expansion
33 of business ownership by minorities and women;

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

37 (c) Will be of public benefit and for a public purpose, and that
38 the benefits, including increased or maintained employment, improved

1 standard of living, ((and)) the employment of disadvantaged workers,
2 and development or expansion of business ownership by minorities and
3 women, will primarily accrue to residents of the area;

4 (d) Will probably be successful;

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

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

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

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

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

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

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

27 (7) Should there be more demand for loans than funds available for
28 lending, the committee shall provide loans for those projects which
29 will lead to the greatest amount of employment or benefit to a
30 community. In determining the "greatest amount of employment or
31 benefit" the committee shall also consider the employment which would
32 be saved by its loan and the benefit relative to the community, not
33 just the total number of new jobs or jobs saved.

34 (8) To the extent permitted under federal law the committee shall
35 require applicants to provide for the transfer of all payments of
36 principal and interest on loans to the Washington state development
37 loan fund created under this chapter. Under circumstances where the
38 federal law does not permit the committee to require such transfer, the

1 committee shall give priority to applications where the applicants on
2 their own volition make commitments to provide for the transfer.

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

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

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

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

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

31 Subject to the restrictions contained in this chapter, the
32 committee is authorized to approve applications of minority and women-
33 owned businesses for loans or loan guarantees from the fund.
34 Applications approved by the committee under this chapter shall conform
35 to applicable federal requirements. The committee shall prioritize
36 available funds for loan guarantees rather than loans when possible.
37 The committee may enter into agreements with other public or private
38 lending institutions to develop a joint loan guarantee program for

1 minority and women-owned businesses. If such a program is developed,
2 the committee may provide funds, in conjunction with the other
3 organizations, to operate the program. This section does not preclude
4 the committee from making individual loan guarantees.

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

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

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

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

26 The committee may make grants of state funds to local governments
27 which qualify as "entitlement communities" under the federal law
28 authorizing community development block grants. These grants may only
29 be made on the condition that the entitlement community provide the
30 committee with assurances that it will: (1) Spend the grant moneys for
31 purposes and in a manner which satisfies state constitutional
32 requirements; (2) spend the grant moneys for purposes and in a manner
33 which would satisfy federal requirements; and (3) spend ~~((double the))~~
34 at least the same amount of the grant for loans to businesses from the
35 federal funds received by the entitlement community.

36

IV. BONDING ASSISTANCE

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

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

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

9 (3) "Department" means the department of trade and economic
10 development.

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

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

19 NEW SECTION. **Sec. 17.** PROGRAM ESTABLISHED. There is established
20 within the department of trade and economic development the Washington
21 state small business bonding assistance program to assist resident
22 minority and women-owned small contracting businesses to acquire the
23 managerial and financial skills, standards, and assistance necessary to
24 enable them to obtain bid, payment, and performance bonds from surety
25 companies for either advertised or designated contracts. The
26 department shall implement the program by establishing a course of
27 instruction as set forth in section 19 of this act. The department
28 shall encourage surety companies and other private interests to help
29 implement this course of instruction to assist minority and women-owned
30 small contracting businesses. The department shall adopt rules to
31 ensure the proper implementation of the program set forth in this
32 chapter.

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

1 The following departments, offices, and agencies shall, at the
2 request of the department, provide information, advice, and assistance
3 to the department:

- 4 (1) The department of general administration;
- 5 (2) The Washington state business assistance center;
- 6 (3) The office of the insurance commissioner;
- 7 (4) The Washington state economic development finance authority;
- 8 and
- 9 (5) The office of minority and women's business enterprises.

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

26 NEW SECTION. **Sec. 20.** ACCREDITATION OF SMALL CONTRACTING
27 BUSINESSES. Any resident minority or women-owned small business
28 contractor may select a key management employee or employees to attend
29 any course of instruction established under section 6 of this act.
30 When the records, maintained by the business assistance center,
31 indicate that a key management employee of a small contracting business
32 has attended all the courses offered, and has successfully completed
33 any tests required, the department shall award the small contracting
34 business a certificate of accreditation which acknowledges successful
35 completion of the courses. The department may also award a certificate
36 of accreditation if a review of the key management employee's
37 education, experience, and business history indicates that the business

1 already possesses the knowledge and skills offered through the course
2 of instruction, or if the key management employee successfully
3 completes all tests required of those who attend the entrepreneurial
4 training course.

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

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

22 NEW SECTION. **Sec. 23.** BOND GUARANTEE APPLICATIONS. If a
23 qualified contractor makes a bond application to an approved surety
24 company for a public or private contracting job, but fails to obtain
25 the bond because the contractor is unable to meet the requirements of
26 the surety company on such bonding contracts, for reasons other than
27 nonperformance, and if the approved surety company applies to the
28 department to have the bond guaranteed by the program, then the
29 department may provide a bond guarantee of up to seventy-five thousand
30 dollars on behalf of the qualified contractor.

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

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

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

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 26.** FUND SUPPORT. The department shall solicit
36 funds and support from surety companies and other public and private
37 entities with an interest in assisting Washington's small business

1 contractors and may enter into agreements with such companies and
2 interests by which they provide funds to the program fund to be matched
3 with funds from nonstate sources.

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

10 *NEW SECTION. **Sec. 28.** *If specific funding for the purposes of*
11 *sections 16 through 27 of this act, referencing sections 16 through 27*
12 *of this act by bill and section numbers, is not provided by June 30,*
13 *1993, in the omnibus appropriations act, sections 16 through 27 of this*
14 *act are null and void.*

15 **Sec. 28 was vetoed, see message at end of chapter.*

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

17 NEW SECTION. **Sec. 29.** The legislature finds that minority and
18 women's business enterprises have been historically excluded from
19 access to capital in the marketplace. The lack of capital has been a
20 major barrier to the development and expansion of business by various
21 minority groups and women. There has been a significant amount of
22 attention on the capital needs of minority and women's business
23 enterprises. It is the intent of the legislature to remedy the problem
24 of a lack of access to capital by minority and women's business
25 enterprises, and other small businesses by authorizing the state
26 treasurer to operate a program that links state deposits to business
27 loans by financial institutions to minority and women's business
28 enterprises.

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

31 (1) The state treasurer shall establish a linked deposit program
32 for investment of deposits in qualified public depositories. As a
33 condition of participating in the program, qualified public
34 depositories must make qualifying loans as provided in this section.

1 The state treasurer may purchase a certificate of deposit that is equal
2 to the amount of the qualifying loan made by the qualified public
3 depository or may purchase a certificate of deposit that is equal to
4 the aggregate amount of two or more qualifying loans made by one or
5 more qualified public depositories.

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

7 (a) Are loans that have terms that do not exceed ten years;

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

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

12 (d) Are made where the interest rate on the loan to the minority or
13 women's business enterprise does not exceed an interest rate that is
14 two hundred basis points below the interest rate the qualified public
15 depository would charge for a loan for a similar purpose and a similar
16 term; and

17 (e) Are made where the points or fees charged at loan closing do
18 not exceed one percent of the loan amount.

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

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

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

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

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

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

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

3 (1) Funds held in public depositaries not as demand deposits as
4 provided in RCW 43.86A.020 and 43.86A.030, shall be available for a
5 time certificate of deposit investment program according to the
6 following formula: The state treasurer shall apportion to all
7 participating depositaries an amount equal to five percent of the three
8 year average mean of general state revenues as certified in accordance
9 with Article VIII, section 1(b) of the state Constitution, or fifty
10 percent of the total surplus treasury investment availability,
11 whichever is less. Within thirty days after certification, those funds
12 determined to be available according to this formula for the time
13 certificate of deposit investment program shall be deposited in
14 qualified public depositaries. These deposits shall be allocated among
15 the participating depositaries on a basis to be determined by the state
16 treasurer.

17 (2) The state treasurer may use up to fifty million dollars per
18 year of all funds available under this section for the purposes of
19 section 30 of this act. The amounts made available to these public
20 depositaries shall be equal to the amounts of outstanding loans made
21 under section 30 of this act.

22 (3) The formula so devised shall be a matter of public record
23 giving consideration to, but not limited to deposits, assets, loans,
24 capital structure, investments or some combination of these factors(~~(÷~~
25 ~~PROVIDED, That~~)). However, if in the judgment of the state treasurer
26 the amount of allocation for certificates of deposit as determined by
27 this section will impair the cash flow needs of the state treasury, the
28 state treasurer may adjust the amount of the allocation accordingly.

29 NEW SECTION. **Sec. 34.** A new section is added to chapter 43.86A
30 RCW to read as follows:

31 The state and those acting as its agents are not liable in any
32 manner for payment of the principal or interest on qualifying loans
33 made under section 30 of this act. Any delay in payments or defaults
34 on the part of the borrower does not in any manner affect the deposit
35 agreement between the qualified public depositary and the state
36 treasurer.

1 state government and its existing public institutions, and shall take
2 effect July 1, 1993.

Passed the House April 25, 1993.

Passed the Senate April 24, 1993.

Approved by the Governor May 18, 1993, with the exception of
certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1993.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 8, 28,
3 and 37, Engrossed Substitute House Bill No. 1493 entitled:

4 "AN ACT Relating to minority and women-owned businesses;"

5 I commend the Legislature for adopting the important public policy
6 initiatives contained within this bill. The assistance provided to
7 minority and women-owned businesses as a result of this legislation
8 will make a significant difference in the ability of these firms to
9 compete in the state's economy.

10 I have vetoed sections 8 and 28, both null and void clauses, on
11 technical grounds. Drafting errors were made in the section of the
12 appropriation bill which provided funding for the Department of Trade
13 and Economic Development. The excision of sections 8 and 28 will
14 protect the initiatives in the bill and allow me to correct the
15 technical errors in the budget. I will propose a supplemental budget
16 for the department for consideration in the 1994 session of the
17 Legislature to provide funding for these programs. Until then, the
18 department will lay the groundwork for implementing these programs
19 within existing resources.

20 My decision to veto section 37 will allow the linked deposit
21 program to proceed by removing the null and void language in this
22 section. I am concerned that there are a number of administrative
23 problems which must be resolved before the program begins operation.
24 These include how the overall size of the program will be coordinated
25 between the Office of the Treasurer and the Department of Community
26 Development, whether Certificates of Deposit can be issued for terms
27 which may be longer than the period which the program is authorized to
28 function, and how the state will determine whether the intended 2
29 percent discount for loans has in fact occurred. I am also concerned
30 about the potential for a \$2 million impact on the General Fund as a
31 result of foregone interest earnings. This impact was not considered
32 as a part of the budget package approved by the Legislature.

33 These concerns are eased by assurances I have received from the
34 Office of the Treasurer. In his letter to me, the Treasurer has stated
35 that it may take months to resolve the administrative problems
36 associated with linked deposits and that once these are resolved,
37 additional time will be needed before the program can begin operations.
38 I am satisfied these timing considerations will minimize the negative
39 impacts on the General Fund due to lost interest income in the 1993-
40 1995 Biennium. The Treasurer has also indicated that additional
41 legislation may be needed to clarify provisions in this bill and that
42 consideration should be given to providing staff to establish and
43 monitor the program. The Treasurer's commitment to the success of the

1 linked deposit program ensures that every effort will be made to
2 effectively implement this legislation.

3 I am committed to an active role in assuring the success of the
4 linked deposit program and will support actions taken by the Treasurer
5 to address the implementation problems that have been identified.

6 For these reasons, I have vetoed sections 8, 28, and 37 of
7 Engrossed Substitute House Bill No. 1493.

8 With the exception of sections 8, 28, and 37, Engrossed Substitute
9 House Bill No. 1493 is approved."