

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Department of Transportation Law of the  
5 Civil Administrative Code of Illinois is amended by adding  
6 Section 2705-610 as follows:

7 (20 ILCS 2705/2705-610 new)

8 Sec. 2705-610. Disadvantaged business revolving loan and  
9 grant program.

10 (a) Purpose. The purpose of this Section is to provide for  
11 assistance to disadvantaged business enterprises with project  
12 financing costs for those firms that are ready, willing, and  
13 able to participate on Department construction contracts. The  
14 Department's disparity study recommends and supports a  
15 financing program to address this barrier faced by  
16 disadvantaged business enterprises.

17 (b) For the purposes of this Section:

18 "Construction" means building, altering, repairing,  
19 improving, or demolishing any public structure or building, or  
20 making improvements of any kind to public real property.  
21 Construction does not include the routine operation, routine  
22 repair, or routine maintenance of existing structures,  
23 buildings, or real property.

1       "Construction-related services" means those services  
2 including construction design, layout, inspection, support,  
3 feasibility or location study, research, development,  
4 planning, or other investigative study undertaken by a  
5 construction agency concerning construction or potential  
6 construction.

7       "Contractor" means one who participates, through a  
8 contract or subcontract at any tier, in a United States  
9 Department of Transportation-assisted or Illinois Department  
10 of Transportation-assisted highway, rail, transit, or airport  
11 program.

12       "Escrow account" means a fiduciary account established  
13 with (1) a banking corporation which is both organized under  
14 the Illinois Banking Act and authorized to accept and  
15 administer trusts in this State; or (2) a national banking  
16 association which has its principal place of business in this  
17 State and which is authorized to accept and administer trusts  
18 in this State.

19       "Fund Control Agent" means a person who provides managerial  
20 and technical assistance to disadvantaged business enterprises  
21 and holds the authority to manage a loan under this Section.  
22 The Fund Control Agent will be procured by the Department under  
23 a request for proposal process governed by the Illinois  
24 Procurement Code and rules adopted under that Code.

25       "Loan" or "loan assistance funds" means a low-interest line  
26 of credit made available to a selected disadvantaged business

1 enterprise under this program for the purposes set forth in  
2 subsection (f) below.

3 (c) The Department may enter into agreements to make loans  
4 to disadvantaged business enterprises certified by the  
5 Department for participation on Department-procured  
6 construction and construction-related contracts. For purposes  
7 of this Section, the term "disadvantaged business enterprise"  
8 has the meaning ascribed to it by 49 CFR Part 26.

9 The Department shall establish a loan selection committee  
10 to review applications and select eligible disadvantaged  
11 business enterprises for low-interest loans under this  
12 program. A selection committee shall be comprised of at least 3  
13 members appointed by the Secretary of the Department and shall  
14 include at least one public member from the construction or  
15 financing industry. The public member may not be employed or  
16 associated with any disadvantaged business enterprise holding  
17 a contract with the Department nor may the public member's firm  
18 be considered for a contract with the Department while he or  
19 she is serving as a public member of the committee. Terms of  
20 service for public members shall not exceed 5 years. No public  
21 member of the loan selection committee shall hold consecutive  
22 terms, nor shall any member receive any compensation other than  
23 for reasonable expenses for service related to this committee.

24 The Department shall establish through administrative  
25 rules the requirements for eligibility and criteria for loan  
26 applications, approved use of funds, amount of loans, interest

1 rates, collateral, and terms. The Department is authorized to  
2 adopt rules to implement this Section.

3 The Department shall notify the prime contractor on a  
4 project that a subcontractor on the same project has been  
5 awarded a loan from the Working Capital Revolving Loan Fund. If  
6 the loan agreement is amended by the parties of the loan  
7 agreement, the prime contractor shall not be a party to any  
8 disadvantaged business enterprise loan agreement between the  
9 Department and participating subcontractor and shall not incur  
10 any liability for loan debt accrued as a result of the loan  
11 agreement.

12 (d) Loan funds shall be disbursed to the escrow account,  
13 subject to appropriation, from the Working Capital Revolving  
14 Loan Fund established as a special fund in the State treasury.  
15 Loaned funds that are repaid to the Department shall be  
16 deposited into the Working Capital Revolving Loan Fund. Other  
17 appropriations, grants, awards, and donations to the  
18 Department for the purpose of the revolving loan program  
19 established by this Section shall be deposited into the Working  
20 Capital Revolving Loan Fund.

21 (e) A funds control process shall be established to serve  
22 as an intermediary between the Department and the contractor to  
23 verify payments and to ensure paperwork is properly filed. The  
24 Fund Control Agent and contractor shall enter into an agreement  
25 regarding the control and disbursement of all payments to be  
26 made by the Fund Control Agent under the contract. The

1 Department shall authorize and direct the Fund Control Agent to  
2 review all disbursement requests and supporting documents  
3 received from the contractor. The Fund Control Agent shall  
4 direct the escrow account to disburse escrow funds to the  
5 subcontractor, material supplier, and other appropriate  
6 entities by written request for the disbursement. The  
7 disadvantaged business enterprise shall maintain control over  
8 its business operations by directing the payments of the loan  
9 funds through its relationship with the Funds Control Agent.  
10 The funds control process shall require the Fund Control Agent  
11 to intercept payments made from a contractor to a subcontractor  
12 receiving a loan made under this Act and allow the Fund Control  
13 Agent to deduct any unpaid loan repayments owed to the State  
14 before releasing the payment to the subcontractor.

15 (f) Loan assistance funds shall be allowed for current  
16 liabilities or working capital expenses associated with  
17 participation in the performance of contracts procured and  
18 awarded by the Department for transportation construction and  
19 construction-related purposes. Loan funds shall not be used  
20 for:

21 (1) refinancing or payment of existing long-term debt;

22 (2) payment of non-current taxes;

23 (3) payments, advances, or loans to stockholders,  
24 officers, directors, partners, or member owners of limited  
25 liability companies; or

26 (4) the purchase or lease of non-construction motor

1 vehicles or equipment.

2 The loan agreement shall provide for the terms and  
3 conditions of repayment which shall not extend repayment longer  
4 than final payment made by the Department following completion  
5 and acceptance of the work authorized for loan assistance under  
6 the program. The funds shall be loaned with interest.

7 (g) The number of loans one disadvantaged business  
8 enterprise may receive under this program is limited to 3.  
9 Loans shall not be granted simultaneously. An applicant shall  
10 not be permitted to obtain a loan under this program for a  
11 different and additional project until payment in full of any  
12 outstanding loans granted under this program have been received  
13 by the Department.

14 (h) The rate of interest for any loan shall be set by rule.

15 (i) The loan amount to any successful applicant shall not  
16 exceed 55% percent of the contract or subcontract supporting  
17 the loan.

18 (j) Nothing in this Section shall impair the contractual  
19 rights of the Department and the prime contractor or the  
20 contractual rights between a prime contractor and  
21 subcontractor.

22 (k) Nothing in this Section is intended nor shall be  
23 construed to vest applicants denied funds by the Department in  
24 accordance with this Section a right to challenge, protest, or  
25 contest the awarding of funds by the Department to successful  
26 applicants or any loan or agreement executed in connection with

1 it.

2 (l) The debt delinquency prohibition under Section 50-11 of  
3 the Illinois Procurement Code applies to any future contracts  
4 or subcontracts in the event of a loan default.

5 (m) Investment income which is attributable to the  
6 investment of moneys in the Working Capital Revolving Loan Fund  
7 shall be retained in the Working Capital Revolving Loan Fund.

8 (n) By January 1, 2014 and January 1 of each succeeding  
9 year, the Department shall report to the Governor and the  
10 General Assembly on the utilization and status of the revolving  
11 loan program. The report shall, at a minimum, include the  
12 amount transferred from the Road Fund to the Working Capital  
13 Revolving Loan Fund, the number and size of approved loans, the  
14 amounts disbursed to and from the escrow account, the amounts,  
15 if any, repaid to the Working Capital Revolving Loan Fund, the  
16 interest and fees paid by loan recipients, and the interest  
17 earned on balances in the Working Capital Revolving Loan Fund,  
18 and the names of any contractors who are delinquent or in  
19 default of payment. The January 1, 2017 report shall include an  
20 evaluation of the program by the Department to determine the  
21 program's viability and progress towards its stated purpose.

22 (o) The Department's authority to execute additional loans  
23 or request transfers to the Working Capital Revolving Loan Fund  
24 expires on June 1, 2018. The Comptroller shall order  
25 transferred and the Treasurer shall transfer any available  
26 balance remaining in the Working Capital Revolving Loan Fund to

1 the Road Fund on January 1, 2019, or as soon thereafter as may  
2 be practical. Any loan repayments, interest, or fees that are  
3 by the terms of a loan agreement payable to the Working Capital  
4 Revolving Loan Fund after June 20, 2018 shall instead be paid  
5 into the Road Fund as the successor fund to the Working Capital  
6 Revolving Loan Fund.

7 Section 10. The State Finance Act is amended by adding  
8 Sections 5.826 and 8r as follows:

9 (30 ILCS 105/5.826 new)

10 Sec. 5.826. The Working Capital Revolving Loan Fund.

11 (30 ILCS 105/8r new)

12 Sec. 8r. Transfer to the Working Capital Revolving Loan  
13 Fund.

14 (a) Except as provided in subsection (b), upon the written  
15 request of the Secretary of Transportation, the State  
16 Comptroller shall order and the State Treasurer shall transfer  
17 amounts not to exceed \$3,000,000 in aggregate during a fiscal  
18 year, for a period of 5 years, from the Road Fund to the  
19 Working Capital Revolving Loan Fund as requested by the  
20 Secretary of Transportation or as soon thereafter as may be  
21 practical.

22 (b) No transfer may be requested or ordered if the  
23 available balance in the Working Capital Revolving Loan Fund is



1 equal to or greater than \$6,000,000.

2           Section 99. Effective date. This Act takes effect July 1,  
3 2013.