

**Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0374.01 Jason Gelender x4330

**SENATE BILL 22-163**

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**SENATE SPONSORSHIP**

**Coleman and Kolker,** Bridges, Buckner, Donovan, Fields, Ginal, Jaquez Lewis, Lee, Winter, Zenzinger

**HOUSE SPONSORSHIP**

**Ricks,**

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**Senate Committees**

Business, Labor, & Technology  
Appropriations

**House Committees**

State, Civic, Military, & Veterans Affairs  
Appropriations

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**A BILL FOR AN ACT**

101      **CONCERNING ESTABLISHMENT OF A PROCUREMENT EQUITY PROGRAM**  
102                      **TO REMEDIATE DISPARITIES IN STATE PROCUREMENT, AND, IN**  
103                      **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill establishes the state procurement equity program (program) in the department of personnel and administration (department) for the purpose of eliminating disparities, including the substantial disparities identified in the state disparity study report prepared as required by Senate Bill 19-135, between the availability of historically

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
May 2, 2022

SENATE  
Amended 2nd Reading  
April 29, 2022

underutilized businesses and the utilization of such businesses in state procurement.

For preliminary implementation of the program, the department, in line with recommendations made in the state disparity study report, is required to:

- Coordinate with the procurement technical assistance center to increase the number of historically underutilized businesses that have the registrations and certifications required to be eligible to apply for and positioned to compete for all state procurement opportunities that they are capable of performing and the number of opportunities available for such businesses;
- Provide solicitation assistance, defined by the bill as the provision of real-time responses to questions asked by potential contractors who seek guidance as to how best to respond to solicitations for state contracts, including guidance regarding availability of opportunities, interpretation of solicitation documents, and solicitation response procedures and best practices; and
- Create a bond assistance program to help historically underutilized businesses to offset all or a portion of the cost of obtaining a surety bond that is required for a solicitation for a state procurement opportunity. The bill transfers \$2 million from the general fund to a newly created bond assistance program cash fund, and the fund is continuously appropriated to the department to implement the bond assistance program.

The department is also required to convene and engage in robust consultation with a stakeholder group consisting of government employees with procurement expertise, an employee of the procurement technical assistance center, owners or high-ranking employees of various types of historically underutilized businesses, and owners or high-ranking employees of businesses that are not historically underutilized businesses but have a demonstrable record of successful engagement and contracting with small businesses and have competed for or been awarded state contracts. The stakeholder group also includes any other individuals who have a demonstrable commitment to furthering equity in government procurement and substantial knowledge of procurement equity best practices who the department deems necessary or appropriate to include. The stakeholder group is required to:

- Closely examine the findings, conclusions, and recommendations in the state disparity study report;
- Using the information in the state disparity study report as a baseline for studying procurement equity programs in other states and at the federal and large local government



1 "STATE PROCUREMENT DISPARITIES REMEDIATION ACT".

2 **24-103-1102. Legislative declaration.** (1) THE GENERAL  
3 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

4 (a) WHEN IT ENACTED SENATE BILL 19-135 IN 2019, IT  
5 FOUND, DETERMINED AND DECLARED, IN SECTION 24-103-1001, THE  
6 IMPORTANCE OF ENSURING AN EQUITABLE STATE PROCUREMENT PROCESS;

7 (b) AS REQUIRED BY SENATE BILL 19-135, THE DEPARTMENT  
8 CONTRACTED WITH AN ENTITY INDEPENDENT OF THE DEPARTMENT TO  
9 CONDUCT A STATE DISPARITY STUDY REGARDING THE PARTICIPATION OF  
10 HISTORICALLY UNDERUTILIZED BUSINESSES, WHICH INCLUDED A REVIEW  
11 OF MINORITY-OWNED BUSINESSES, WOMEN-OWNED BUSINESSES,  
12 BUSINESSES OWNED BY PERSONS WITH DISABILITIES, AND BUSINESSES  
13 OWNED BY MEMBERS OF THE LESBIAN, GAY, BISEXUAL, AND TRANSGENDER  
14 COMMUNITY, IN STATE CONTRACTS ENTERED INTO BY ANY DEPARTMENT,  
15 AGENCY, OR INSTITUTION OF THE EXECUTIVE BRANCH OF STATE  
16 GOVERNMENT;

17 (c) THE STATE DISPARITY STUDY EXAMINED WHETHER A DISPARITY  
18 EXISTS BETWEEN THE PERCENTAGE OF STATE CONTRACT DOLLARS GOING  
19 TO HISTORICALLY UNDERUTILIZED BUSINESSES AND THE PERCENTAGE  
20 THAT MIGHT BE EXPECTED TO GO TO THOSE BUSINESSES BASED ON THE  
21 RELATIVE NUMBER OF THOSE BUSINESSES THAT ARE READY, WILLING AND  
22 ABLE TO PERFORM DIFFERENT TYPES, SIZES AND LOCATIONS OF STATE  
23 CONTRACTS;

24 (d) THE INDEPENDENT ENTITY COMPLETED THE REQUIRED STATE  
25 DISPARITY STUDY AND ISSUED THE "2020 STATE OF COLORADO DISPARITY  
26 STUDY FINAL REPORT" IN NOVEMBER 2020, WHICH FOUND THAT:

27 (I) MINORITY-OWNED AND WOMEN-OWNED BUSINESSES RECEIVED

1 ABOUT EIGHT PERCENT OF STATE CONTRACT DOLLARS, BELOW THE  
2 TWENTY-EIGHT PERCENT EXPECTED FROM THE AVAILABILITY ANALYSIS;

3 (II) UTILIZATION OF FIRMS OWNED BY PERSONS WITH DISABILITIES  
4 WAS LESS THAN ONE PERCENT OF CONTRACT DOLLARS, BELOW THE  
5 TWELVE PERCENT EXPECTED FROM THE AVAILABILITY ANALYSIS,

6 (III) A VERY SMALL PERCENTAGE OF CONTRACT DOLLARS WENT TO  
7 BUSINESSES CERTIFIED AS BEING OWNED BY MEMBERS OF THE LESBIAN,  
8 GAY, BISEXUAL, AND TRANSGENDER COMMUNITY (LGBT-CERTIFIED  
9 BUSINESSES), BUT BECAUSE A VERY SMALL NUMBER OF BUSINESSES IN THE  
10 AVAILABILITY ANALYSIS WERE LGBT-CERTIFIED BUSINESSES, THAT  
11 UTILIZATION IS COMPARABLE TO THE AVAILABILITY BENCHMARK FOR  
12 LGBT-CERTIFIED BUSINESSES;

13 (IV) THERE WAS A SUBSTANTIAL DISPARITY BETWEEN UTILIZATION  
14 AND AVAILABILITY FOR FIRMS OWNED BY AFRICAN AMERICAN PERSONS,  
15 HISPANIC AMERICAN PERSONS, NATIVE AMERICAN PERSONS, WHITE  
16 WOMEN, AND PERSONS WITH DISABILITIES FOR STATE CONSTRUCTION,  
17 CONSTRUCTION-RELATED PROFESSIONAL SERVICES, OTHER PROFESSIONAL  
18 SERVICES, GOODS AND OTHER SERVICES CONTRACTS;

19 (V) THERE WAS A SUBSTANTIAL DISPARITY FOR BUSINESSES  
20 OWNED BY ASIAN-AMERICAN PERSONS FOR OTHER PROFESSIONAL  
21 SERVICES CONTRACTS;

22 (VI) FOR STATE BROKERAGE AND INVESTMENT CONTRACTS, THERE  
23 WERE SUBSTANTIAL DISPARITIES BETWEEN UTILIZATION AND  
24 AVAILABILITY OF BUSINESSES OWNED BY AFRICAN AMERICAN PERSONS,  
25 HISPANIC AMERICAN PERSONS, NATIVE AMERICAN PERSONS, AND WHITE  
26 WOMEN;

27 (e) AS DETAILED IN THE STATE DISPARITY STUDY REPORT, THE

1 RESULTS OF THE STUDY INDICATE THAT DISPARITIES BETWEEN  
2 AVAILABILITY OF HISTORICALLY UNDERUTILIZED BUSINESSES AND  
3 UTILIZATION OF SUCH BUSINESSES EXISTS IN STATE CONTRACTING;

4 (f) ALTHOUGH THE STATE IS ALREADY ENDEAVORING TO HELP  
5 SMALL BUSINESSES OBTAIN STATE CONTRACTS, IT IS DOING SO WITH  
6 LIMITED TOOLS AND RESOURCES;

7 (g) THE DISPARITIES IDENTIFIED IN THE STATE DISPARITY REPORT  
8 ARE LIKELY TO PERSIST UNLESS FURTHER ACTION IS TAKEN; AND

9 (h) THE STATE DISPARITY STUDY REPORT RECOMMENDED THAT  
10 THE GENERAL ASSEMBLY CONSIDER ENACTING LEGISLATION TO  
11 AUTHORIZE AND FUND A PROCUREMENT EQUITY PROGRAM TO ADDRESS  
12 THE SPECIFIC DISPARITIES SHOWN IN THE STATE DISPARITY STUDY REPORT  
13 FOR HISTORICALLY UNDERUTILIZED BUSINESSES BASED ON INDUSTRY AND  
14 BUSINESS OWNERSHIP.

15 **24-103-1103. Definitions.** AS USED IN THIS PART 11, UNLESS THE  
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "CONSTRUCTION-RELATED PROFESSIONAL SERVICES" MEANS  
18 SERVICES WITH ARCHITECTURE AND ENGINEERING, SURVEYING, REAL  
19 ESTATE CONSULTING, AND RELATED WORK.

20 (2) "DISPARITY" MEANS AN INEQUALITY, DIFFERENCE, OR GAP  
21 BETWEEN AN ACTUAL OUTCOME AND A REFERENCE POINT OR BENCHMARK.

22 (3) "DISPARITY INDEX" MEANS A MEASURE OF THE RELATIVE  
23 DIFFERENCE BETWEEN AN OUTCOME, SUCH AS PERCENTAGE OF CONTRACT  
24 DOLLARS RECEIVED BY A GROUP, AND A CORRESPONDING BENCHMARK,  
25 SUCH AS THE PERCENTAGE OF CONTRACT DOLLARS THAT MIGHT BE  
26 EXPECTED GIVEN THE RELATIVE AVAILABILITY OF THAT GROUP FOR THOSE  
27 CONTRACTS. IN THIS EXAMPLE, DISPARITY INDEX IS CALCULATED BY

1 DIVIDING A NUMERATOR OF PERCENT UTILIZATION BY A DENOMINATOR OF  
2 PERCENT AVAILABILITY AND THEN MULTIPLYING THE RESULT BY 100. A  
3 DISPARITY INDEX OF 100 INDICATES "PARITY" OR UTILIZATION "ON PAR"  
4 WITH AVAILABILITY. DISPARITY INDEX FIGURES CLOSER TO 0 INDICATE  
5 LARGER DISPARITIES BETWEEN UTILIZATION AND AVAILABILITY.

6 (4) "HISTORICALLY UNDERUTILIZED BUSINESS" MEANS AN ENTITY:

7 (a) THAT IS A BUSINESS, FOR-PROFIT CORPORATION, SOLE  
8 PROPRIETORSHIP, PARTNERSHIP, OR JOINT VENTURE THAT IS MORE THAN  
9 FIFTY PERCENT OWNED BY ONE OR MORE INDIVIDUALS WHO ARE:

10 (I) UNITED STATES CITIZENS OR PERMANENT RESIDENT ALIENS;  
11 AND

12 (II) ONE OR MORE OF THE FOLLOWING:

13 (A) MEMBERS OF A RACIAL OR ETHNIC MINORITY GROUP; EXCEPT  
14 THAT A BUSINESS OWNED BY ASIAN AMERICAN PERSONS IS A  
15 HISTORICALLY UNDERUTILIZED BUSINESS ONLY WITH RESPECT TO STATE  
16 PROCUREMENT FOR "OTHER PROFESSIONAL SERVICES CONTRACTS", AS  
17 THAT TERM IS DEFINED IN THE STATE DISPARITY STUDY.

18 (B) NON-HISPANIC CAUCASIAN WOMEN; OR

19 (C) PERSONS WITH DISABILITIES; AND

20 ==

21 (b) FOR WHICH THE MINORITY OWNERSHIP CONTROLS BOTH THE  
22 MANAGEMENT AND DAY-TO-DAY BUSINESS DECISIONS.

23 (5) "INDUSTRY" MEANS BUSINESSES WITHIN ONE OF THE  
24 FOLLOWING ECONOMIC SECTORS:

25 (a) CONSTRUCTION;

26 (b) CONSTRUCTION-RELATED PROFESSIONAL SERVICES;

27 (c) BROKERAGE AND INVESTMENT;

- 1           (d) OTHER PROFESSIONAL SERVICES; AND
- 2           (e) GOODS AND OTHER SERVICES.
- 3           (6) "MINORITY BUSINESS OFFICE" MEANS THE MINORITY BUSINESS  
4 OFFICE CREATED IN SECTION 24-49.5-102.
- 5           (7) "OFFICE" MEANS THE OFFICE OF ECONOMIC DEVELOPMENT  
6 CREATED IN SECTION 24-48.5-101 (1).
- 7           (8) "PERSONS WITH DISABILITIES" MEANS PERSONS WHO:
- 8           (a) HAVE PHYSICAL OR MENTAL IMPAIRMENTS, OR BOTH, THAT  
9 SUBSTANTIALLY LIMIT ONE OR MORE MAJOR LIFE ACTIVITIES;
- 10           (b) ARE REGARDED GENERALLY BY THE COMMUNITY AS HAVING  
11 A DISABILITY; AND
- 12           (c) WHOSE DISABILITIES SUBSTANTIALLY LIMIT THEIR ABILITIES TO  
13 ENGAGE IN COMPETITIVE BUSINESS.
- 14           (9) "PRIME CONTRACT" MEANS A CONTRACT BETWEEN THE STATE  
15 AND A BUSINESS.
- 16           (10) "PRIME CONTRACTOR" MEANS A CONSTRUCTION BUSINESS  
17 THAT PERFORMS A PRIME CONTRACT FOR THE STATE.
- 18           (11) "PROCUREMENT TECHNICAL ASSISTANCE CENTER" MEANS THE  
19 ENTITY THROUGH WHICH A PROCUREMENT TECHNICAL ASSISTANCE  
20 PROGRAM IS PROVIDED.
- 21           (12) "PROCUREMENT TECHNICAL ASSISTANCE PROGRAM" HAS THE  
22 SAME MEANING AS SET FORTH IN SECTION 24-48.5-121 (2)(d).
- 23           (13) "PROFESSIONAL SERVICES" MEANS TYPES OF WORK IN THE  
24 SERVICE SECTOR REQUIRING SPECIAL TRAINING. SOME PROFESSIONAL  
25 SERVICES SUCH AS ACCOUNTING AND LAW, REQUIRE HOLDING  
26 PROFESSIONAL LICENSES.
- 27           (14) "PROGRAM" MEANS THE STATE PROCUREMENT EQUITY



1 PROGRAM ESTABLISHED IN SECTION 24-103-1104 (1).

2 (15) "RACIAL OR ETHNIC MINORITY GROUP" MEANS INDIVIDUALS  
3 WHO BELONG TO ONE OR MORE RACIAL OR ETHNIC GROUPS IDENTIFIED IN  
4 49 CFR SECTION 26.5:

5 (a) AFRICAN AMERICAN PERSONS, INCLUDING PERSONS HAVING  
6 ORIGINS IN ANY OF THE BLACK RACIAL GROUPS OF AFRICA;

7 (b) HISPANIC AMERICAN PERSONS, INCLUDING PERSONS OF  
8 MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICAN, OR  
9 OTHER SPANISH OR PORTUGUESE CULTURE OR ORIGIN, REGARDLESS OF  
10 RACE;

11 (c) ASIAN AMERICAN PERSONS, INCLUDING PERSONS WHOSE  
12 ORIGINS ARE FROM JAPAN, CHINA, TAIWAN, KOREA, VIETNAM, LAOS,  
13 CAMBODIA, THE PHILIPPINES, SAMOA, THE UNITED STATES TERRITORIES  
14 OF THE PACIFIC, OR THE NORTHERN MARIANA ISLANDS; OR PERSONS  
15 WHOSE ORIGINS ARE FROM SUBCONTINENT ASIA, INCLUDING PERSONS  
16 WHOSE ORIGINS ARE FROM INDIA, PAKISTAN, BANGLADESH, SRI LANKA,  
17 BHUTAN, OR NEPAL; OR

18 (d) NATIVE AMERICAN PERSONS, INCLUDING PERSONS WHO ARE  
19 AMERICAN INDIANS, ESKIMOS, ALEUTS, OR HAWAIIANS OF POLYNESIAN  
20 DESCENT.

21 (16) "REMEDIAL MEASURE" MEANS AN ACTION DESIGNED TO  
22 ADDRESS BARRIERS TO FULL PARTICIPATION OF A TARGETED GROUP.

23 (17) "SMALL BUSINESS" MEANS A BUSINESS THAT QUALIFIES AS A  
24 SMALL BUSINESS PURSUANT TO 13 CFR 121.

25 (18) "SMALL BUSINESS DEVELOPMENT CENTER" HAS THE SAME  
26 MEANING AS SET FORTH IN SECTION 24-48.5-121 (2)(f).

27 (19) "SOLICITATION ASSISTANCE" MEANS THE PROVISION OF

1 REAL-TIME RESPONSES TO QUESTIONS ASKED BY POTENTIAL CONTRACTORS  
2 WHO SEEK GUIDANCE AS TO HOW BEST TO RESPOND TO SOLICITATIONS FOR  
3 STATE CONTRACTS, INCLUDING GUIDANCE REGARDING AVAILABILITY OF  
4 OPPORTUNITIES, INTERPRETATION OF SOLICITATION DOCUMENTS, AND  
5 SOLICITATION RESPONSE PROCEDURES AND BEST PRACTICES.  
6 "SOLICITATION ASSISTANCE" DOES NOT INCLUDE GUIDANCE SPECIFIC TO  
7 A PARTICULAR SOLICITATION FOR A STATE CONTRACT THAT COULD  
8 REASONABLY BE EXPECTED TO PROVIDE AN UNFAIR ADVANTAGE TO THE  
9 POTENTIAL CONTRACTOR OVER OTHER POTENTIAL CONTRACTORS  
10 RESPONDING TO THE SOLICITATION.

11 (20) "STATE DISPARITY STUDY" OR "STUDY" MEANS THE STUDY  
12 REGARDING THE PARTICIPATION OF HISTORICALLY UNDERUTILIZED  
13 BUSINESSES IN STATE CONTRACTS ENTERED INTO BY ALL PRINCIPAL  
14 DEPARTMENTS OF STATE GOVERNMENT THAT WAS COMMISSIONED BY THE  
15 EXECUTIVE DIRECTOR AS REQUIRED BY SECTION 24-103-1003.

16 (21) "STATE DISPARITY STUDY REPORT" OR "REPORT" MEANS THE  
17 "2020 STATE OF COLORADO DISPARITY STUDY FINAL REPORT" PUBLISHED  
18 IN NOVEMBER 2020.

19 (22) "SUBCONTRACTOR" MEANS ANY PERSON WHO IS A PARTY TO  
20 AN AGREEMENT WITH A PRIME CONTRACTOR FOR THE PURPOSE OF  
21 PERFORMING A PORTION OF THE WORK THAT THE PRIME CONTRACTOR IS  
22 OBLIGED TO PERFORM OR HAVE PERFORMED UNDER A CONTRACT.

23 (23) "SUBSTANTIAL DISPARITY" MEANS A DISPARITY WHERE THE  
24 DISPARITY INDEX IS LESS THAN 80, WHICH CAN INDICATE EVIDENCE OF  
25 DISCRIMINATION AFFECTING THE OUTCOME.

26 (24) "UTILIZATION" MEANS THE PERCENTAGE OF TOTAL CONTRACT  
27 DOLLARS OF A PARTICULAR TYPE OF WORK GOING TO A SPECIFIC GROUP OF

1 BUSINESSES.

2 (25) "WOMEN-OWNED BUSINESS" OR "WBE" MEANS A BUSINESS  
3 THAT IS AT LEAST FIFTY-ONE PERCENT OWNED AND CONTROLLED BY ONE  
4 OR MORE INDIVIDUALS THAT ARE NON-MINORITY WOMEN.

5 **24-103-1104. State procurement equity program - established**  
6 **- goal - preliminary implementation maximization of contracting**  
7 **opportunities - expansion of historically underutilized business**  
8 **registry - real-time solicitation assistance help desk - bond assistance**  
9 **program - cash fund - report.** (1) (a) THE STATE PROCUREMENT EQUITY  
10 PROGRAM IS ESTABLISHED IN THE DEPARTMENT. THE DEPARTMENT, IN  
11 ACCORDANCE WITH ITS EXISTING STATE PROCUREMENT RELATED DUTIES  
12 OF PROMULGATING STATE CONTRACTING FISCAL RULES AND PROVIDING  
13 PROCUREMENT RELATED GUIDANCE AND MANAGEMENT, INCLUDING  
14 CONTRACT FORMS AND THE CONTRACT MANAGEMENT SYSTEM, TO MOST  
15 STATE EXECUTIVE BRANCH AGENCIES, SHALL ACT TO ENSURE THE  
16 EXPEDITIOUS DEVELOPMENT AND FULL IMPLEMENTATION OF THE  
17 PROGRAM AS REQUIRED BY THIS PART 11. THE DEPARTMENT SHALL ACT IN  
18 CONSULTATION WITH, TO THE EXTENT REQUIRED BY THIS PART 11 OR AS  
19 OTHERWISE DEEMED NECESSARY OR ADVISABLE BY THE DEPARTMENT, THE  
20 OFFICE, THE PROCUREMENT TECHNICAL ASSISTANCE CENTER, THE SMALL  
21 BUSINESS DEVELOPMENT CENTER, THE MINORITY BUSINESS OFFICE, THE  
22 DEPARTMENT OF TRANSPORTATION, AND OTHER PERSONS OR ENTITIES  
23 THAT HAVE EXPERTISE OR INTEREST IN PROCUREMENT GENERALLY OR IN  
24 STATE PROCUREMENT EQUITY.

25 (b) THE GOAL OF THE PROGRAM IS TO REDUCE DISPARITIES  
26 IDENTIFIED IN THE STATE DISPARITY STUDY REPORT BETWEEN THE  
27 AVAILABILITY OF HISTORICALLY UNDERUTILIZED BUSINESSES AND THE

1 UTILIZATION OF SUCH BUSINESSES IN STATE PROCUREMENT.

2 (2) As IMPLEMENTATION OF THE PROGRAM, THE DEPARTMENT  
3 SHALL:

4 =====  
5 (a) PROVIDE, AT ALL TIMES DURING REGULAR STATE BUSINESS  
6 HOURS, SOLICITATION ASSISTANCE THROUGH A HELP DESK. THE  
7 DEPARTMENT SHALL TRACK USAGE OF SOLICITATION ASSISTANCE AND, TO  
8 THE EXTENT FEASIBLE, FOLLOW UP WITH RECIPIENTS OF SOLICITATION  
9 ASSISTANCE TO DETERMINE AND TRACK THE EXTENT TO WHICH THEY HAVE  
10 SUCCEEDED IN BEING AWARDED STATE CONTRACTS. THE DEPARTMENT  
11 SHALL ALSO CONTINUOUSLY MONITOR USAGE OF THE SOLICITATION  
12 ASSISTANCE HELP DESK TO DETERMINE WHETHER THE AMOUNT OF HUMAN  
13 AND FINANCIAL RESOURCES DEDICATED TO THE PROVISION OF  
14 SOLICITATION ASSISTANCE IS OPTIMAL TO MEET DEMAND WHILE  
15 STEWARDING STATE RESOURCES. =====

16 (b) (I) CREATE A BOND ASSISTANCE PROGRAM TO HELP  
17 HISTORICALLY UNDERUTILIZED BUSINESSES THAT ARE SMALL BUSINESSES  
18 TO OFFSET ALL OR A PORTION OF THE COST OF OBTAINING A SURETY BOND  
19 THAT IS REQUIRED FOR A SOLICITATION FOR A STATE PROCUREMENT  
20 OPPORTUNITY.

21 (II) THE BOND ASSISTANCE PROGRAM CASH FUND IS HEREBY  
22 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF GENERAL FUND  
23 MONEY TRANSFERRED TO THE FUND AS REQUIRED BY SUBSECTION  
24 (2)(c)(III) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL  
25 ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE  
26 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE  
27 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. MONEY

1 IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR  
2 THE IMPLEMENTATION OF THE BOND ASSISTANCE PROGRAM.

3 (III) ON JULY 1, 2022, THE STATE TREASURER SHALL TRANSFER  
4 TWO MILLION DOLLARS FROM THE GENERAL FUND TO THE BOND  
5 ASSISTANCE PROGRAM CASH FUND.

6 (c) CAREFULLY CONSIDER ALL OF THE RECOMMENDATIONS IN THE  
7 STATE DISPARITY STUDY REPORT THAT ARE NOT REQUIRED TO BE  
8 IMPLEMENTED PURSUANT TO SUBSECTIONS (2)(a) TO (2)(c) OF THIS  
9 SECTION TO DETERMINE WHETHER, USING ONLY EXISTING RESOURCES, IT  
10 CAN IMPLEMENT OR MAKE MEANINGFUL PROGRESS TOWARDS  
11 IMPLEMENTING ANY OF THE RECOMMENDATIONS. IF THE DEPARTMENT  
12 DETERMINES THAT IT CAN IMPLEMENT OR MAKE MEANINGFUL PROGRESS  
13 TOWARDS IMPLEMENTING ANY SUCH RECOMMENDATION USING ONLY  
14 EXISTING RESOURCES, IT SHALL DO SO.

15 (3) THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY  
16 REGARDING ITS PRELIMINARY IMPLEMENTATION OF THE PROGRAM DURING  
17 THE DEPARTMENT'S JANUARY 2025 DEPARTMENTAL PRESENTATION TO  
18 LEGISLATIVE COMMITTEES OF REFERENCE REQUIRED BY SECTION 2-7-203  
19 (2)(a).

20 **24-103-1105. State procurement equity program**  
21 **implementation - stakeholder group - recommendations - report -**  
22 **legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS,  
23 DETERMINES, AND DECLARES THAT:

24 (a) THE STATE SEEKS RECOMMENDATIONS FROM STATE  
25 PROCUREMENT STAKEHOLDERS, AS CONVENED PURSUANT TO SUBSECTION  
26 (2) OF THIS SECTION FOR THE IMPLEMENTATION OF REMEDIAL MEASURES,  
27 INCLUDING REMEDIAL MEASURES USING PROCUREMENT EQUITY TOOLS,

1 AND QUANTIFICATION OF THE AMOUNT OF ADDITIONAL FUNDING AND  
2 PERSONNEL REQUIRED TO BOTH IMPLEMENT SPECIFIC REMEDIAL MEASURES  
3 AND FULLY IMPLEMENT THE PROGRAM; AND

4 (b) To SUPPORT THE INTENT OF THE GENERAL ASSEMBLY IN  
5 ENACTING THIS PART 11, THE REMEDIATION OF DISPARITIES IN STATE  
6 PROCUREMENT,      THROUGH THOUGHTFUL, EFFICIENT, AND EFFECTIVE  
7 IMPLEMENTATION OF THE PROGRAM THAT TAKES INTO ACCOUNT THE  
8 PROFESSIONAL EXPERTISE AND LIVED EXPERIENCE OF STATE  
9 PROCUREMENT STAKEHOLDERS AS CONVENED PURSUANT TO SUBSECTION  
10 (2) OF THIS SECTION, IT IS NECESSARY, APPROPRIATE, AND IN THE BEST  
11 INTEREST OF THE STATE TO REQUIRE THE DEPARTMENT TO CONVENE,  
12 CONTRACT WITH A FACILITATOR TO FACILITATE DISCUSSION AMONG,  
13 ENGAGE IN CONSULTATION WITH, AND STRONGLY CONSIDER THE FORMAL  
14 POLICY RECOMMENDATIONS OF A STAKEHOLDER GROUP THAT MAY BE  
15 COMPRISED, TO THE EXTENT PRACTICABLE, OF REPRESENTATIVES OF  
16 HISTORICALLY UNDERUTILIZED BUSINESSES AND SMALL BUSINESSES,       
17 GOVERNMENTAL ENTITIES, FEDERAL AND LOCAL ORGANIZATIONS THAT  
18 PROVIDE PROCUREMENT TECHNICAL ASSISTANCE OR OUTREACH TO  
19 HISTORICALLY UNDERUTILIZED BUSINESSES AND SMALL BUSINESSES, AND  
20 SUCH OTHER PERSONS WITH RELEVANT PROFESSIONAL EXPERIENCE,  
21 INCLUDING GOVERNMENT PROCUREMENT AND GOVERNMENT  
22 CONTRACTING EXPERIENCE AS THE DEPARTMENT DEEMS APPROPRIATE.

23 (2) THE DEPARTMENT SHALL CONVENE, CONTRACT WITH A  
24 FACILITATOR TO FACILITATE DISCUSSION AMONG, AND ENGAGE IN  
25 CONSULTATION WITH A STAKEHOLDER GROUP, WHICH, TO THE EXTENT  
26 PRACTICABLE MAY CONSIST OF:

27 (a) THE FOLLOWING STATE GOVERNMENT EMPLOYEES:

1 (I) AN EMPLOYEE OF THE DEPARTMENT WHO HAS EXTENSIVE  
2 EXPERIENCE AND EXPERTISE IN STATE PROCUREMENT;

3 (II) AN EMPLOYEE OF THE OFFICE WHO HAS BEEN INVOLVED IN THE  
4 OFFICE'S ADMINISTRATION OF OR IS OTHERWISE KNOWLEDGEABLE ABOUT  
5 THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM, THE SMALL  
6 BUSINESS COVID-19 GRANT PROGRAM CREATED IN SECTION 24-48.5-126,  
7 OR THE COVID-19 RELIEF FOR DISPROPORTIONATELY IMPACTED  
8 BUSINESSES PROGRAM CREATED IN SECTION 24-48.5-127;

9 (III) AN EMPLOYEE OF THE MINORITY BUSINESS OFFICE; AND

10 (IV) AN EMPLOYEE OF THE DEPARTMENT OF TRANSPORTATION  
11 WHO HAS SIGNIFICANT EXPERIENCE AND EXPERTISE REGARDING THE  
12 DEPARTMENT OF TRANSPORTATION'S CIVIL RIGHTS PROGRAMS THAT  
13 ESTABLISH, ADMINISTER, AND ENFORCE THE DEPARTMENT OF  
14 TRANSPORTATION'S DIVERSITY, EQUITY, AND INCLUSION REQUIREMENTS  
15 FOR ENGINEERS, CONTRACTORS, CONSULTANTS, LOCAL AGENCIES, AND  
16 TRANSIT PROVIDERS;

17 (b) AN EMPLOYEE OF THE CITY AND COUNTY OF DENVER'S  
18 DIVISION OF SMALL BUSINESS OPPORTUNITY WHO HAS SIGNIFICANT  
19 EXPERIENCE AND EXPERTISE REGARDING THE PROGRAMS AND OPERATION  
20 OF THE DIVISION;

21 (c) AN EMPLOYEE OF THE PROCUREMENT TECHNICAL ASSISTANCE  
22 CENTER;

23 (d) AN OWNER OR HIGH-LEVEL EMPLOYEE OF EACH OF THE  
24 FOLLOWING TYPES OF HISTORICALLY UNDERUTILIZED BUSINESSES:

25 (I) A BUSINESS OWNED BY ONE OR MORE WOMEN;

26 (II) A BUSINESS OWNED BY ONE OR MORE AFRICAN AMERICAN  
27 PERSONS;

1 (III) A BUSINESS OWNED BY ONE OR MORE ASIAN AMERICAN  
2 PERSONS;

3 (IV) A BUSINESS OWNED BY ONE OR MORE HISPANIC AMERICAN  
4 PERSONS;

5 (V) A BUSINESS OWNED BY ONE OR MORE NATIVE AMERICAN  
6 PERSONS; AND

7 (VI) A BUSINESS OWNED BY ONE OR MORE PERSONS WITH  
8 DISABILITIES; AND

9 ==

10 (e) TO THE EXTENT PRACTICABLE, AN OWNER OR HIGH-LEVEL  
11 EMPLOYEE OF EACH OF THE FOLLOWING TYPES OF BUSINESSES THAT ARE  
12 NOT HISTORICALLY UNDERUTILIZED BUSINESSES AND THAT HAVE  
13 COMPETED FOR OR BEEN AWARDED STATE CONTRACTS:

14 (I) A SMALL BUSINESS;

15 (II) A BUSINESS THAT IS NOT A SMALL BUSINESS BUT THAT HAS  
16 FEWER THAN FIVE HUNDRED EMPLOYEES AND A DEMONSTRABLE RECORD  
17 OF SUCCESSFUL ENGAGEMENT AND CONTRACTING WITH SMALL  
18 BUSINESSES; ==

19 (III) A BUSINESS THAT HAS MORE THAN FIVE HUNDRED EMPLOYEES  
20 AND A DEMONSTRABLE RECORD OF SUCCESSFUL ENGAGEMENT AND  
21 CONTRACTING WITH SMALL BUSINESSES; AND

22 (IV) WITH CONSIDERATION FOR THE VOLUME OF CONSTRUCTION  
23 CONTRACTS AWARDED ANNUALLY BY THE STATE, A REPRESENTATIVE OF  
24 THE ASSOCIATED GENERAL CONTRACTORS; AND

25 (f) ANY OTHER INDIVIDUALS WHO HAVE A DEMONSTRABLE  
26 COMMITMENT TO FURTHERING EQUITY IN GOVERNMENT PROCUREMENT  
27 AND SUBSTANTIAL KNOWLEDGE OF PROCUREMENT EQUITY BEST



1 PRACTICES WHO THE DEPARTMENT DEEMS NECESSARY OR APPROPRIATE TO  
2 INCLUDE IN THE STAKEHOLDER GROUP.

3 (3) THE STAKEHOLDER GROUP CONVENED AS REQUIRED BY  
4 SUBSECTION (2) OF THIS SECTION SHALL:

5 (a) CLOSELY EXAMINE THE FINDINGS, CONCLUSIONS, AND  
6 RECOMMENDATION IN THE STATE DISPARITY STUDY REPORT;

7 (b) USING THE INFORMATION IN THE STATE DISPARITY STUDY  
8 REPORT AS A BASELINE FOR STUDYING PROCUREMENT EQUITY PROGRAMS  
9 IN OTHER STATES AND AT THE FEDERAL AND LARGE LOCAL GOVERNMENT  
10 LEVEL, IDENTIFY BEST PRACTICES FOR SUCCESSFUL PROCUREMENT EQUITY  
11 PROGRAM IMPLEMENTATION AND ADMINISTRATION; AND

12 (c) NO LATER THAN NOVEMBER 1, 2023, PRESENT TO THE  
13 DEPARTMENT A REPORT OF SPECIFIC FINDINGS, REMEDIAL MEASURES, AND  
14 RECOMMENDATIONS THAT INCLUDES, AT A MINIMUM:

15 (I) PRIORITIZATION OF THE RECOMMENDATIONS OUTLINED IN THE  
16 STATE DISPARITY STUDY REPORT. THE PRIORITIZATION MAY INCLUDE  
17 WRITTEN EXPLANATIONS OF RECOMMENDATIONS THAT SPECIFY WHETHER  
18 RECOMMENDATIONS IN THE REPORT WILL BE IMPLEMENTED AND THE  
19 REMEDIAL MEASURES THAT WILL BE TAKEN TO SUPPORT PROGRAM  
20 IMPLEMENTATION IN A MANNER THAT IS SUFFICIENTLY COMPREHENSIVE  
21 TO MEET THE STATE'S GOAL OF REDUCING DISPARITIES BETWEEN THE  
22 AVAILABILITY OF HISTORICALLY UNDERUTILIZED BUSINESSES AND THEIR  
23 UTILIZATION IN STATE PROCUREMENT AND INCREASING SUCH UTILIZATION.

24 (II) CONFIRMATION OR REFUTATION OF THE DISPARITY STUDY  
25 REPORT FINDING OF NO SUBSTANTIAL DISPARITY BETWEEN AVAILABLE AND  
26 UTILIZED LESBIAN, GAY, BISEXUAL, AND TRANSGENDER BUSINESSES;

27 (III) CONFIRMATION OR REFUTATION OF THE DISPARITY STUDY

1 REPORT FINDING OF NO SUBSTANTIAL DISPARITY BETWEEN AVAILABILITY  
2 AND UTILIZATION OF BUSINESSES OWNED BY ASIAN AMERICAN PERSONS  
3 FOR CONSTRUCTION, CONSTRUCTION-RELATED PROFESSIONAL SERVICES,  
4 GOODS AND OTHER SERVICES CONTRACTS, BROKERAGE, AND INVESTMENT;

5 (IV) A PRELIMINARY ESTIMATE OF THE AMOUNT OF INITIAL AND  
6 ONGOING FUNDING, PERSONNEL, INFORMATION TECHNOLOGY RESOURCES,  
7 AND OTHER RESOURCES NEEDED TO IMPLEMENT THE POLICY \_\_\_\_\_  
8 RECOMMENDATIONS AND REMEDIAL MEASURES IN ACCORDANCE WITH  
9 SUBSECTION (3)(b) OF THIS SECTION;

10 (V) A STEP-BY-STEP TIMELINE FOR FULL IMPLEMENTATION OF THE  
11 PROGRAM;

12 (VI) SUGGESTED METHODOLOGIES AND METRICS FOR MONITORING  
13 AND EVALUATING THE SUCCESS OF THE PROGRAM AND ENSURING  
14 PROGRAM ACCOUNTABILITY; AND

15 (VII) IDENTIFICATION OF ANY PUBLIC OR PRIVATE SOURCES OF  
16 FUNDING OR OTHER RESOURCES THAT MAY BE AVAILABLE TO EXPEDITE  
17 THE IMPLEMENTATION OR ONGOING ADMINISTRATION OF THE PROGRAM  
18 AND REDUCE COSTS TO THE STATE.

19 (4) THE DEPARTMENT SHALL REPORT ON THE PROGRESS AND  
20 POLICY RECOMMENDATIONS AND ANY SUGGESTED REMEDIAL MEASURES  
21 OF THE STAKEHOLDER GROUP, THE PRELIMINARY PLANS,  
22 RECOMMENDATIONS, AND REMEDIAL MEASURES THAT THE DEPARTMENT  
23 HAS TAKEN REGARDING THE FULL IMPLEMENTATION OF THE PROGRAM,  
24 AND ANY RECOMMENDATIONS THAT THE DEPARTMENT HAS REGARDING  
25 THE NEED FOR RELATED LEGISLATION DURING ITS JANUARY 2025 ANNUAL  
26 PRESENTATION TO LEGISLATIVE OVERSIGHT COMMITTEES REQUIRED BY  
27 SECTION 2-7-203 (2)(a). IN PREPARATION FOR THE PRESENTATION, THE

1 DEPARTMENT SHALL GIVE STRONG CONSIDERATION TO THE POLICY  
2 RECOMMENDATIONS REPORT PROVIDED BY THE STAKEHOLDER GROUP AS  
3 REQUIRED BY SUBSECTION (3)(c) OF THIS SECTION.

4 **SECTION 2.** In Colorado Revised Statutes, 24-101-301, amend  
5 (31) as follows:

6 **24-101-301. Definitions.** The terms defined in this section shall  
7 have the following meanings whenever they appear in this code, unless  
8 the context in which they are used clearly requires a different meaning or  
9 a different definition is prescribed for a particular article or portion  
10 thereof:

11 (31) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-103-1103  
12 (13), "professional services" means services of accountants, clergy,  
13 physicians, lawyers, and dentists and such other services as may be  
14 procured through agents of those services, excluding those professional  
15 services as defined in section 24-30-1402, as the executive director may  
16 by rule designate as professional services.

17 **SECTION 3. Appropriation.** (1) For the 2022-23 state fiscal  
18 year, \$2,007,707 is appropriated to the department of personnel. This  
19 appropriation is from the general fund. To implement this act, the  
20 department may use this appropriation as follows:

21 (a) \$1,046,345 for use by the executive director's office for the  
22 state procurement equity program, which amount is based on an  
23 assumption that the program will require an additional 4.6 FTE;

24 (b) \$400,556 for use by the division of human resources for  
25 liability claims; and

26 (c) \$560,806 for use by the division of human resources for  
27 liability legal services.

1           (2) For the 2022-23 state fiscal year, \$114,824 is appropriated to  
2 the office of the governor for use by the office of information technology.  
3 This appropriation is from reappropriated funds received from the  
4 department of personnel under subsection (1)(a) of this section. To  
5 implement this act, the office may use this appropriation to provide  
6 information technology services for the department of personnel.

7           **SECTION 4. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, or safety.