

1 S.107

2 Introduced by Committee on Economic Development, Housing and General  
3 Affairs

4 Date:

5 Subject: Economic development; entrepreneur programs; capitalization

6 Statement of purpose: This bill proposes to promote entrepreneurship in  
7 Vermont by improving access to capital financing and by establishing  
8 programs and policies designed to support Vermont's entrepreneurial  
9 economy.

10 An act relating to an entrepreneurial manifesto for Vermont

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. FINDINGS AND PURPOSE

13 (a) Over the last decade, Vermont has made significant investments in  
14 business development and workforce training and, as a result, has begun to  
15 foster innovation and entrepreneurship and cultivate a skilled workforce.

16 (b) In order to fully reap the benefits of our prior investments, however, the  
17 general assembly finds that it is now time to expand upon our economic  
18 development initiatives. To that end, the purpose of this act is to encourage  
19 investments in young start-up companies with the goal of creating both jobs

1 and economic prosperity in this state and filling a gap in the capital financing  
2 spectrum for Vermont businesses.

3 \* \* \* Entrepreneurs' Seed Capital Fund \* \* \*

4 Sec. 2. 10 V.S.A. chapter 14A is amended to read:

5 CHAPTER 14A. THE ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL  
6 FUND

7 § 290. DEFINITIONS

8 For purposes of this chapter:

9 (1) "Follow-on investment" means any investment in a Vermont firm  
10 following the initial investment.

11 (2) "Fund manager" means the investment management firm responsible  
12 for creating the fund, securing capital commitments, and implementing the  
13 fund's investment strategy, consistent with the requirements of this section.

14 The fund manager shall be paid a fee which reflects a percentage of the fund's  
15 capital under management and a performance-fee share based on the fund's  
16 economic performance, as determined by the authority.

17 (3) "Seed capital" means first, nonfamily, nonfounder investment in the  
18 form of equity or convertible securities issued by a firm which had, in the 12  
19 months preceding the date of the funding commitment, annual gross sales of  
20 less than \$3,000,000.00.

1 § 291. ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND;

2 AUTHORIZATION; LIMITATIONS

3 (a) The Vermont economic development authority shall cause to be formed  
4 a private investment equity fund to be named “the ~~Vermont~~ entrepreneurs'  
5 seed capital fund” or “the fund” ~~is authorized~~ for the purpose of increasing the  
6 amount of investment capital provided to new Vermont firms or to existing  
7 Vermont firms for the purpose of expansion. The authority may contract with  
8 one or more persons for the operation of the fund as fund manager. Such  
9 contract shall contain the terms and conditions pursuant to which the fund shall  
10 be managed to meet the fund's objective of providing seed capital to Vermont  
11 firms. The terms of the contract shall require that, if the fund manager does  
12 not meet the investment criteria specified in the contract, the fund manager  
13 may not be awarded the performance fee established under subdivision (c)(2)  
14 of this section.

15 (b) The ~~Vermont seed capital~~ fund shall be formed as ~~either a business~~  
16 ~~corporation~~ or a limited partnership pursuant to Title 11 and shall be subject to  
17 all the following:

18 (1) The ~~Vermont seed capital~~ fund shall not invest in any firm in which  
19 ~~a total of more than a 25 percent~~ any interest in that firm is held by an investor  
20 of the ~~Vermont seed capital~~ fund ~~combined with any interest held in the firm~~ or  
21 by the spouse ~~or dependent,~~ children, or other relative of the investor.

1           (2) The fund shall invest at least 40 percent of its total capital in initial  
2 investment in firms which had in the 12 months preceding the date of the  
3 funding commitment annual gross sales of less than \$1,000,000.00 and may  
4 reserve the remainder of its capital for follow-on investments in these  
5 businesses, as appropriate.

6           (3) Before the fund makes any investments, the fund shall:

7           ~~(A) If organized as a corporation, have and thereafter maintain a~~  
8 ~~board of nine directors to be elected by the shareholders.~~

9           ~~(B) If organized as a partnership, have and maintain a board of three~~  
10 five advisors who shall be appointed by the authority as follows: two shall be  
11 appointed by the authority, two shall be appointed by the fund manager, and  
12 one shall be appointed jointly by the authority and the fund manager. The  
13 board of advisors shall represent solely the economic interest of the state with  
14 respect to the management of the fund and shall have no civil liability for the  
15 financial performance of the fund. The board of advisors shall be advised of  
16 investments made by the fund and shall have access to all information held by  
17 the fund with respect to investments made by the fund.

18           ~~(3)(4)~~ The Vermont seed capital fund, within 120 days after the close of  
19 each fiscal year of its operations, shall issue a report that includes an audited  
20 financial statement certified by an independent certified public accountant.  
21 The report also shall include a compilation of the firm data required by

1 subsection (d) of this section. This data shall be reported in a manner that does  
2 not disclose competitive or proprietary information, as determined by the  
3 authority. This report shall be distributed to the governor and the legislative  
4 council senate committee on economic development, housing and general  
5 affairs and the house committee on commerce and economic development and  
6 made available to the public. The report shall include a discussion of the  
7 fund's impact on the Vermont economy and employment.

8 ~~(4)~~(5) The ~~Vermont seed capital~~ fund shall not make distributions of  
9 more than 75 percent of its net profit to its investors during its first five years  
10 of operation.

11 ~~(5)~~(6) No person shall be allocated more than ~~10~~ 20 percent of the  
12 available tax credits. For the purposes of determining allocation, the  
13 attribution rules of Section 318 of the Internal Revenue Code in effect as of the  
14 effective date of this chapter shall apply.

15 ~~(6)~~(7) The capitalization of the fund is not limited under this section;  
16 however, only the first \$5 \$10 million of capitalization of the Vermont seed  
17 capital fund raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020,  
18 shall be eligible for partial tax credits as specified in 32 V.S.A. § 5830b.

19 ~~(7)~~(8) All investments and related business dealings using funds that  
20 qualify for partial tax credits under 32 V.S.A. § 5830b shall be subject to the  
21 following restrictions:

1           (A) The investments shall be restricted to Vermont firms, which for  
2           the purposes of this chapter means that their Vermont apportionment equals or  
3           exceeds 50 percent, using the apportionment rules under 32 V.S.A. § 5833, and  
4           they maintain headquarters and a principal facility in Vermont. Any funds  
5           invested in Vermont firms shall be used for the purpose of enhancing their  
6           Vermont ~~investments~~ operations. Investment shall be restricted to firms that  
7           export the majority of their products and services outside the state or add  
8           substantial value to products and materials within the state. In its investments,  
9           the fund shall give priority to new firms and existing firms that are developing  
10          new products, and shall take into consideration any impact on in-state  
11          competition and also whether the investment will encourage economic activity  
12          that would not occur but for the fund investment.

13          (B) Each ~~Vermont seed capital~~ fund investment in any one firm, in  
14          any 12-month period shall be limited to a maximum of ten percent of the  
15          ~~Vermont seed capital~~ fund's capitalization and, for the life of the fund, to a  
16          maximum of 20 percent of the fund's total capitalization.

17          (C) At least two-thirds of the monies invested by the ~~Vermont seed~~  
18          ~~capital~~ fund and qualifying for a tax credit under 32 V.S.A. § 5830b shall at all  
19          times be invested in the form of equity or convertible securities.—~~This~~  
20          ~~provision shall not prohibit~~ unless the fund manager determines it is reasonable  
21          and necessary to pursue, temporarily, the generally accepted business practice

1 of earning interest on working funds deposited in relatively secure accounts  
2 such as savings and money market funds.

3 (c) Any firm receiving monies from the fund must report to the fund  
4 manager the following information regarding its activities in the state over the  
5 calendar year in which the investment occurred:

6 (1) The total amount of private investment received.

7 (2) The total number of persons employed as of December 31.

8 (3) The total number of jobs created and retained, which also shall  
9 indicate for each job the corresponding job classification, hourly wage and  
10 benefits, and whether it is part-time or full-time.

11 (4) Total annual payroll.

12 (5) Total sales revenue.

13 (d) The authority, in consultation with the fund manager, shall establish  
14 reasonable standards and procedures for evaluating potential recipients of fund  
15 monies. The authority shall make available to the general public a report of all  
16 firms that receive fund investments and also indicate the date of the  
17 investment, the amount of the investment, and a description of the firm's  
18 intended use of the investment. This report shall be updated at least quarterly.

19 (e) Information and materials submitted by a business receiving monies  
20 from the fund shall be available to the auditor of accounts in connection with  
21 the performance of duties under 32 V.S.A. § 163; provided, however, that the

1 auditor of accounts shall not disclose, directly or indirectly, to any person any  
2 proprietary business information.

3 Sec. 3. REPEAL

4 10 V.S.A. § 292 (providing for the initial organization of the Vermont seed  
5 capital fund) is repealed.

6 Sec. 4. 32 V.S.A. § 5830b is amended to read:

7 § 5830b. TAX CREDITS; ~~VERMONT~~ ENTREPRENEURS' SEED

8 CAPITAL FUND

9 (a) The initial capitalization of the Vermont entrepreneurs' seed capital  
10 fund ~~comprising a maximum \$5,~~ as established in 10 V.S.A. § 291, up to \$10  
11 million raised from Vermont taxpayers on or before January 1, 2014 2020,  
12 shall entitle those taxpayers to a credit against the tax imposed by sections  
13 5822, 5832, 5836, or 8551 of this title and by 8 V.S.A. § 6014. The credit may  
14 be claimed for the taxable year in which a contribution is made and each of the  
15 four succeeding taxable years. The amount of the credit for each year shall be  
16 the lesser of ~~four~~ ten percent of the taxpayer's contribution or 50 percent of the  
17 taxpayer's tax liability for that taxable year prior to the allowance of this  
18 credit; provided, however, that in no event shall the aggregate credit allowable  
19 under this section for all taxable years exceed ~~20~~ 50 percent of the taxpayer's  
20 contribution to the initial ~~\$5~~ \$10 million capitalization of the ~~Vermont seed~~

1 ~~capital~~ fund. The credit shall be nontransferable except as provided in  
2 subsection (b) of this section.

3 (b) If the taxpayer disposes of an interest in the ~~Vermont seed capital~~ fund  
4 within four years after the date on which the taxpayer acquired that interest,  
5 any unused credit attributable to the disposed-of interest is disallowed. This  
6 disallowance does not apply in the event of an involuntary transfer of the  
7 interest, including a transfer at death to any heir, devisee, legatee, or trustee, or  
8 in the event of a transfer without consideration to or in trust for the benefit of  
9 the taxpayer or one or more persons related to the taxpayer as spouse,  
10 descendant, parent, grandparent, or child.

11 \* \* \* Licensed Lender Laws \* \* \*

12 Sec. 5. 8 V.S.A. § 2201(c) is added to read:

13 (c) No license shall be required of:

14 \* \* \*

15 (14) nonprofit organizations established under testamentary instruments,  
16 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code,  
17 26 U.S.C. § 501(c)(3), and which make loans for postsecondary educational  
18 costs to students and their parents, provided that the organizations provide  
19 annual accountings to the probate court pursuant to 14 V.S.A. § 2324;

20 (15) persons who make no more than three commercial loans in a  
21 calendar year.



1 waste; advanced biomass heating technologies and technologies using  
2 biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

3 (c) Purposes of fund. The purposes of the fund shall be to promote the  
4 development and deployment of cost-effective and environmentally sustainable  
5 electric power resources and emerging energy-efficient technologies, for the  
6 long-term benefit of Vermont electric customers, primarily with respect to  
7 renewable energy resources, and the use of combined heat and power  
8 technologies. The general assembly expects and intends that the public service  
9 board, public service department, and the state's power and efficiency utilities  
10 will actively implement the authority granted in Title 30 to acquire all  
11 reasonably available cost-effective energy efficiency resources and  
12 technologies for the benefit of Vermont ratepayers and the power system.

13 The fund shall be managed, primarily, to promote:

14 (1) the increased use of renewably produced electrical and thermal  
15 energy and combined heat and power technologies in the state;

16 (2) the growth of the renewable energy-provider and combined heat and  
17 power industries in the state;

18 (3) the creation of additional employment opportunities and other  
19 economic development benefits in the state through the increased use of  
20 renewable energy and combined heat and power technologies; ~~and~~



1     § 280aa. FINDINGS AND PURPOSE

2         (a) Technology-based companies are a vital source of innovation,  
3     employment, and economic growth in Vermont. The continued development  
4     and success of this increasingly important sector of Vermont's economy is  
5     dependent upon the availability of flexible, risk-based capital. Because the  
6     primary assets of technology-based companies sometimes consist almost  
7     entirely of intellectual property, such companies frequently do not have access  
8     to conventional means of raising capital, such as asset-based bank financing.

9         (b) To support the growth of technology-based companies and the resultant  
10    creation of high-wage employment in Vermont, a technology loan program is  
11    established under this subchapter.

12    § 280bb. TECHNOLOGY LOAN PROGRAM

13         There is created a technology (TECH) loan program to be administered by  
14    the Vermont economic development authority. The program shall seek to meet  
15    the working capital and capital-asset financing needs of technology-based  
16    companies. The Vermont economic development authority shall establish such  
17    policies and procedures for the program as are necessary to carry out the  
18    purposes of this subchapter. The authority's lending criteria shall include  
19    consideration of in-state competition and whether a company has made  
20    reasonable efforts to secure capital in the private sector.

1     § 280cc. CREDIT OF THE STATE PLEDGED

2             An amount not to exceed \$1,000,000.00 of the full faith and credit of the  
3     state pledged for the support of the activities of the Vermont economic  
4     development authority under section 223 of this title is authorized to be used  
5     by the authority for loss reserves in the TECH loan program established under  
6     this subchapter.

7                             \* \* \* Wage Threshold for VEGI Program \* \* \*

8     Sec. 8. STUDY ON THE VEGI PROGRAM

9             The VEGI technical working group shall make recommendations to the  
10     general assembly regarding the following:

11             (1) whether the VEGI program should target job creation, in general,  
12     and not just the creation of new, high-paying jobs; and

13             (2) options that are consistent with the integrity of the VEGI cost-benefit  
14     model but allow for variation in wage thresholds based on regional prevailing  
15     wage rates and unemployment rates.

16                             \* \* \* Effective Date \* \* \*

17     Sec. 9. EFFECTIVE DATE

18             This act shall take effect upon passage.