

1 H.627

2 Introduced by Representatives Davis of Washington, Ancel of Calais,
3 Bartholomew of Hartland, Burke of Brattleboro, Buxton of
4 Tunbridge, Clarkson of Woodstock, Cole of Burlington,
5 Conquest of Newbury, Cross of Winooski, Dakin of Chester,
6 Deen of Westminster, Donovan of Burlington, Fisher of
7 Lincoln, French of Randolph, Grad of Moretown, Haas of
8 Rochester, Hooper of Montpelier, Krowinski of Burlington,
9 Macaig of Williston, Martin of Springfield, Masland of
10 Thetford, McCormack of Burlington, McCullough of Williston,
11 Michelsen of Hardwick, Moran of Wardsboro, Mrowicki of
12 Putney, O'Sullivan of Burlington, Pearson of Burlington, Ram
13 of Burlington, Sharpe of Bristol, Spengler of Colchester,
14 Stevens of Waterbury, Stevens of Shoreham, Till of Jericho,
15 Townsend of South Burlington, Weed of Enosburgh, Wizowaty
16 of Burlington, and Zagar of Barnard

17 Referred to Committee on

18 Date:

19 Subject: Commerce and trade; banking; State bank; government operations

1 Statement of purpose of bill as introduced: This bill proposes to:

2 (1) create statutorily the 10 Percent for Vermont Program within the
3 Vermont Economic Development Authority for the purpose of establishing a
4 banking system owned, controlled, and operated by the State of Vermont;

5 (2) amend the statutory authority of the Vermont Economic Development
6 Authority to permit it to engage in the business of banking; and

7 (3) direct the State Treasurer to transfer 10 percent of the State
8 government's cash reserves to the 10 Percent for Vermont Program for initial
9 funding.

10 An act relating to the establishment of the 10 Percent for Vermont Program

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

12 Sec. 1. 10 V.S.A. § 211 is amended to read:

13 § 211. LEGISLATIVE FINDINGS

14 (a) The ~~legislature~~ General Assembly finds that it is necessary to alleviate
15 and prevent unemployment and underemployment and to raise the per capita
16 income within the ~~state~~ State, that the development and increase of industry,
17 including the further processing of agricultural products, within the ~~state~~ State
18 will promote the prosperity and general welfare of all citizens, and that this
19 chapter is necessary and desirable in order to accomplish these purposes. The
20 ~~legislature~~ General Assembly also finds that it is necessary and desirable to

1 encourage the development, production, and distribution of renewable energy
2 resources within the ~~state~~ State.

3 (b) The ~~legislature~~ General Assembly further finds that:

4 (1) small businesses are responsible for generating the majority of new
5 jobs; and substantial economic development opportunity exists encouraging
6 entrepreneurial development and innovation in Vermont;

7 (2) ~~The legislature~~ the General Assembly further finds that business
8 incubator facilities have proved to be effective tools to help small and start-up
9 businesses through the difficult early years with low-cost, flexible space,
10 necessary support services at an affordable cost, and with managerial and
11 technical assistance on such items as bookkeeping, inventory control,
12 marketing, and personnel. Vermont's experience with business incubators
13 confirms their value in nurturing jobs and entrepreneurship;

14 (3) ~~The legislature~~ the General Assembly further finds that business
15 incubator facilities related to institutions of higher education nationwide have
16 been an excellent source for successful business enterprises; and

17 (4) the General Assembly also finds that a system of banking owned,
18 controlled, and operated by the State can provide an effective tool to support
19 community and economic development projects by increasing access to capital
20 for businesses in the State, creating jobs, and providing stability to the local
21 financial sector.

1 (c) Therefore, the general public advantage requires:

2 (1) ~~An~~ an increased inventory of industrial sites and modern buildings
3 suitable to house new or existing business enterprises;

4 (2) ~~The~~ the expansion, reclamation, or renovation of existing buildings
5 to house new or existing business enterprises;

6 (3) ~~Low-cost~~ low-cost capital available to local development
7 corporations for the purchase of land for industrial sites, for planning and
8 development of industrial parks, and for the construction of speculative
9 industrial buildings and small business incubator facilities;

10 (4) ~~Low-cost~~ low-cost capital available to industrial enterprises to
11 provide land, buildings, and equipment for industrial expansion;

12 (5) ~~Aid~~ aid to existing business enterprises in the ~~state~~ State when such
13 aid will prevent serious reduction in employment, or will enhance or increase
14 the existing level of employment;

15 (6) ~~Low-cost~~ low-cost capital for the abatement of industrial air and
16 water pollution and general improvement of the disposal of industrial waste;

17 (7) ~~Low-cost~~ low-cost capital to assist Vermont family farmers to farm
18 as provided in subdivision 272(a)(3) of this title;

19 (8) ~~Low-cost~~ low-cost capital available for the purchase of land,
20 buildings, and equipment to process Vermont milk, including the processing of
21 milk into cheese, yogurt, or other value-added milk products; ~~and~~

1 Sec. 4. 10 V.S.A. chapter 12, subchapter 14 is added to read:

2 Subchapter 14. 10 Percent for Vermont Program

3 § 280ff. CREATION; PURPOSES

4 (a) There is established within the Authority the 10 Percent for Vermont
5 Program (Program).

6 (b) The purposes of the Program are the following:

7 (1) to enable the Authority to engage in the business of banking by
8 receiving deposits of State funds and making loans;

9 (2) to increase access to capital and provide other forms of financing to
10 community and economic development projects in the State of Vermont,
11 including thermal efficiency and renewable energy creation, local
12 infrastructure, and education;

13 (3) to provide stability to the local financial sector;

14 (4) to reduce the cost paid by the State government for banking services;

15 (5) to weatherize 80,000 homes by 2020 and use 90 percent of energy
16 from renewable sources by 2050;

17 (6) to reduce student loan debt; and

18 (7) to return profits, beyond those necessary to accomplish the mission
19 and sound operations of the Program, to the General Fund.

1 § 280gg. MANAGEMENT; POWERS AND DUTIES

2 (a) Management. The 15 voting members of the Authority appointed
3 pursuant to subsection 213(b) of this chapter shall operate, manage, and control
4 the Program.

5 (b) Powers and duties. The members shall:

6 (1) establish policies requiring the holding of regular meetings;

7 (2) appoint a president of the Program with extensive demonstrated
8 knowledge and experience in banking;

9 (3) appoint and employ any subordinate officers, employees, and agents
10 as the members consider necessary and define the duties, designate the titles,
11 and fix the compensation of all those persons;

12 (4) remove and discharge any and all persons under subdivisions (2) and
13 (3) of this subsection or section 280hh of this subchapter; and

14 (5) adopt rules and regulations that are necessary to carry out the
15 purposes of this subchapter.

16 § 280hh. ADVISORY COMMITTEE

17 (a) Creation of committee. The 10 Percent for Vermont Program Advisory
18 Committee (Advisory Committee) is established within the Authority to enlist
19 the help of private enterprise and encourage the use and growth of the
20 Program.

1 (b) Membership.

2 (1) The Advisory Committee shall be composed of seven members as
3 follows:

4 (A) one representative from a State-chartered bank;

5 (B) two residents of the State of Vermont with demonstrated
6 knowledge and experience in banking who shall be appointed by the Chief
7 Executive Officer of the Authority;

8 (C) one current member of the Senate;

9 (D) one current member of the House of Representatives;

10 (E) the State Treasurer; and

11 (F) the Chief Executive Officer of the Authority.

12 (2) The Chief Executive Officer of the Authority shall be the Chair of
13 the Advisory Committee and shall appoint a vice chair and secretary. The
14 appointed members of the Advisory Committee shall be appointed for terms of
15 six years and shall serve until their successors are appointed and qualified.

16 (c) Powers and duties. The Advisory Committee shall:

17 (1) meet regularly with the Authority's members to review and make
18 recommendations concerning the Program's operations, finances, and loan
19 practices;

20 (2) oversee the development of the Program's initial bank lending
21 priorities;

1 (3) make recommendations to the members of the Authority relating to
2 the establishment of additional objectives for the operation of the Program;

3 (4) make recommendations to the members of the Authority concerning
4 the appointment of officers of the Program; and

5 (5) participate on loan committees.

6 (d) Meetings. The Advisory Committee shall meet six times per calendar
7 year. The meetings shall be convened by the chief executive officer of the
8 Authority.

9 (e) Reimbursement.

10 (1) For attendance at meetings during adjournment of the General
11 Assembly, legislative members of the Advisory Committee shall be entitled to
12 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.
13 § 406 for no more than six meetings.

14 (2) Other members of the Advisory Committee who are not employees
15 of the State of Vermont and who are not otherwise compensated or reimbursed
16 for their attendance shall be entitled to reimbursement of expenses pursuant to
17 32 V.S.A. § 1010 for no more than six meetings.

18 § 280ii. 10 PERCENT FOR VERMONT PROGRAM; POWERS; DUTIES

19 The Program shall have the following powers and duties:

20 (1) make, purchase, guarantee, or hold loans;

1 (A) to State-chartered or federally chartered lending agencies or
2 institutions or any other financial institutions;

3 (B) that are insured or guaranteed in whole or in part by the United
4 States or its agencies or instrumentalities;

5 (C) obtained as security pledged for, or originated in the restructuring
6 of, any other loan properly originated or participated in by the Program;

7 (D) to instrumentalities of the State; and

8 (E) directly to any private individual or legal entity.

9 (2) purchase, guarantee, modify, or hold loans originated by financial
10 institutions authorized to do business in the State;

11 (3) purchase participation interests in loans made or held by banks, bank
12 holding companies, State-chartered or federally chartered financial institutions,
13 any other financial institutions, or any other entity that provides financial
14 services and that meets underwriting standards that are generally accepted by
15 the State or federal financial regulatory agencies;

16 (4) make loans in the form of participation loans to qualified persons
17 residing in or doing business in the State of Vermont when the originator of the
18 loan is a private financial institution;

19 (5) invest its funds in conformity with policies of the Advisory
20 Committee;

21 (6) buy and sell federal bonds;

1 (7) lease, assign, sell, exchange, transfer, convey, grant, pledge, or
2 mortgage all real and personal property, title to which has been acquired in any
3 manner;

4 (8) receive deposits from any source and deposit funds in any bank or
5 other financial institution;

6 (9) issue bank stock loans to financial institutions authorized to do
7 business in this State;

8 (10) perform all acts and do all things necessary, convenient, advisable,
9 or desirable to carry out the powers expressly granted or necessarily implied in
10 this subchapter through or by means of its president, officers, agents, or
11 employees or by contracts with any person, firm, or corporation.

12 § 280jj. PUBLIC FUNDS

13 (a) The Program may accept deposits of public funds. The Program may
14 not accept deposits of private funds.

15 (b) All income earned by the Program on public funds shall be credited to
16 and shall become part of the revenues and income of the Program.

17 (c) The Program shall pay interest on public deposits at a rate comparable
18 to rates paid by private depositories of public funds and may offer other
19 financial products to the State Treasurer on a competitive basis.

1 § 280kk. EXAMINATIONS AND AUDIT REPORTS

2 (a) The State Auditor shall contract with an independent certified public
3 accounting firm for an annual audit of the Program in accordance with
4 generally accepted government auditing standards.

5 (b) The State Auditor shall audit annually or contract for an annual audit of
6 the separate programs and funds administered by the Program. On request of
7 the State Auditor, the members of the Authority shall assist the State Auditor
8 in the auditing firm selection process, but the selection of the auditing firm is
9 the State Auditor's responsibility. The auditor selected shall prepare an audit
10 report that includes financial statements presented in accordance with the audit
11 and accounting guide for banks and savings institutions issued by the
12 American Institute for Certified Public Accountants. The auditor also shall
13 prepare audited financial statements for inclusion in the comprehensive annual
14 financial report for the Authority prepared pursuant to subsection 217(b) of this
15 chapter. The auditor shall report the results of the audit to the members of the
16 Authority and to the General Assembly.

17 (c) The State Auditor may conduct performance audits of the Program.

18 (d) The Program shall pay the costs of the audit, which shall be expended
19 from the Program.

1 (e) The Department of Financial Regulation shall examine the Program at
2 least once every 24 months and conduct any investigation of the Program that
3 may be necessary.

4 (f) The Treasurer shall report the examination results, and the results of any
5 necessary investigation, to the members of the Authority and to the General
6 Assembly as soon as practicable.

7 (g) The Department of Financial Regulation may charge a fee for any
8 examination or investigation at an hourly rate to be set by the Treasurer
9 sufficient to cover all reasonable expenses of the Department associated with
10 the examinations and investigation provided for by this section, which shall be
11 expended from the Program.

12 § 280ll. CREDIT OF THE STATE PLEDGED

13 The full faith and credit of the State is pledged to the support of the
14 Program's activities under this subchapter pursuant to the terms set forth in
15 section 223 of this chapter.

16 § 280mm. REPORT

17 Beginning July 1, 2015, and annually thereafter, the Program shall report to
18 the General Assembly on its financial condition and performance, including
19 the amount of revenue deposited or transferred to the credit of the Program
20 during the year and the amount of withdrawals, and provide an analysis of the
21 Program's impact on the State consistent with the Program's purpose set forth

1 in section 280ff of this subchapter, with particular attention to the Program's
2 impact on job creation and economic development.

3 § 280nn. TITLE

4 (a) All business of the Program shall be conducted under the name of the
5 10 Percent for Vermont Program. Title to property pertaining to the operation
6 of the Program shall be obtained and conveyed in the name of the 10 Percent
7 for Vermont Program.

8 (b) Instruments shall be executed in the name of the State of Vermont.
9 Within the scope of authority granted by the members of the Authority, the
10 president of the Program may execute instruments on behalf of the Program,
11 including any instrument granting, conveying, or otherwise affecting any
12 interest in or lien upon real or personal property.

13 (c) Officers or employees of and legal counsel to the Program may execute
14 instruments on behalf of the Program when authorized by the members of the
15 Authority.

16 § 280oo. RULES AND REGULATIONS

17 The Program shall adopt rules and regulations to do the following:

18 (1) ensure the safety and soundness of the Program by adhering to sound
19 underwriting practices, avoiding excessive risk and, to the extent possible,
20 reflecting applicable standards for safety and soundness set forth in Part 364 of
21 Title 12 of the Code of Federal Regulations;

1 (2) specify the Program's powers and permissible investments and
2 activities;

3 (3) authorize specific services that the Program may provide;

4 (4) specify limits for loans and other obligations the trust makes or
5 undertakes; and

6 (5) specify reserve requirements consistent with federal law.

7 Sec. 5. 10 PERCENT FOR VERMONT PROGRAM; INITIAL FUNDING
8 AND LOANS

9 (a) The 10 Percent for Vermont Program shall be initially funded by the
10 following:

11 (1) a one-time transfer of 10 percent of the State's average daily cash
12 balance in FY 2014; and

13 (2) any other monies that are appropriated to the Program from public or
14 private sources.

15 (b) In FY 2015, the 10 Percent for Vermont Program shall use the funding
16 set forth in subsection (a) of this section to provide lending for:

17 (1) residential and commercial renewable energy and thermal efficiency;

18 (2) loans to Vermont students attending Vermont State colleges; and

19 (3) local infrastructure projects.

1 (c) For each year following FY 2015, the Fund will provide lending based
2 on the recommendations for long-term lending strategies developed by the
3 10 Percent for Vermont Advisory Committee.

4 Sec. 6. 10 PERCENT FOR VERMONT ADVISORY
5 COMMITTEE; REPORT

6 On or before February 1, 2015, the Advisory Committee shall submit a
7 report to the Senate Committees on Finance and on Government Operations
8 and the House Committees on Ways and Means and on Government
9 Operations with recommendations for implementing the 10 Percent for
10 Vermont Program. The report shall include:

11 (1) recommendations for long-term lending strategies, including
12 implementation of a State credit card;

13 (2) a recommendation for the amount and source of funds needed to
14 adequately capitalize the Program;

15 (3) recommendations for the potential consolidation of the Vermont
16 Finance Housing Agency and the Vermont Student Assistance Corporation
17 with the Vermont Economic Development Authority, including
18 recommendations for any statutory changes needed to use fully the banking
19 resources and powers of the Vermont Economic Development Authority and
20 eliminate any duplication of efforts or conflicts with any other State agencies;

- 1 (4) recommendations pertaining to the liability of the State and the
2 Program in civil actions; and
3 (5) recommendations regarding the confidentiality of certain records
4 held by the Program.
5 Sec. 7. EFFECTIVE DATE
6 This act shall take effect on July 1, 2014.